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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA, : 04-CR-911
5 : (JS)
6 -against- : United States Courthouse
7 : Central Islip, New York
8 ALPHONSE T. PERSICO and
9 JOHN J. DeROSS, November 20, 2007
10 Defendants. 9:30 a.m.
11 -----X

12 BEFORE:
13 HONORABLE JOANNA SEYBERT
14 UNITED STATES DISTRICT COURT JUDGE, and a jury

15 APPEARANCES:

16 For the Government: BENTON J. CAMPELL
17 UNITED STATES ATTORNEY
18 One Pierrepont Plaza
19 Brooklyn, New York 11201
20 BY: JOHN BURETTA, ESQ.
21 JEFFREY GOLDBERG, ESQ.
22 DEBORAH MAYER, ESQ.
23 United States Attorneys
24 For the Defense: SARITA KEDIA, ESQ.
25 - For Persico Five East 22nd Street, Suite 7B
New York, New York 10010
AND: JULIE JONES, ESQ.
- For DeRoss LaRUSSO & CONWAY, ESQ.
300 Old Country Road, Suite 341
Mineola, New York 11501
BY: ROBERT P. LaRUSSO, ESQ.
Court Reporter: STEPHANIE PICOZZI
HARRY RAPAPORT
United States District Court
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Central Islip, New York 11722
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Proceedings recorded by computerized stenography.
Transcript produced by CAT.

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1 THE COURT: Good morning. Please be seated for
2 a moment.

3 It appears that the train people, some number of
4 individuals, the train was late so we don't have them yet.
5 Hopefully that will be corrected shortly.

6 We might as well wait five, ten minutes.

7 THE COURT: Ms. Kedia, I have your letter here
8 with regard to the Court's restriction of your
9 cross-examination.

10 You have reviewed it, Mr. Buretta?

11 MR. BURETTA: I have just read it, Judge. The
12 only case that really seems to be relevant in here is the
13 Marchand case, and I have a vague recollection that
14 Marchand dealt with a unique situation regarding
15 identification of individuals. I haven't had a chance to
16 read it again, but the rules and the advisory committee
17 note with respect to prior identification of individuals.
18 It's treated pretty uniquely and I don't think applies
19 here.

20 We will certainly, over the next few days, look
21 at this case law and review it and we can respond to it.

22 If, for some reason, Marchand is much broader
23 than the amendments to the rules after 1977, somehow
24 encompass this sort of testimony, supposedly inconsistent,
25 which I don't think they do, we can certainly find

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1 whatever the appropriate excerpts are from the witness'
2 prior testimony and they can admit them in evidence. But
3 we have to look at it. I don't think it's ripe.

4 THE COURT: If you would, and I will make a
5 ruling on it at that time.

6 MR. BURETTA: Judge, we proposed yesterday
7 evening a stipulation regarding a video that a witness Tod
8 Wilson, who is our second witness today, would be
9 testifying about. I know at least counsel for Mr. DeRoss
10 is considering that and wanted to consult with his client
11 this morning. It's a video of Joseph Campanella and
12 DeRoss that's not pertinent to Persico, but I wanted your
13 Honor to know we are making those efforts and hopefully
14 the defense can get back to us in the next few minutes.

15 THE COURT: How long is the video?

16 MR. BURETTA: I think we are just playing a
17 couple of minutes from it, Judge. The stipulation would
18 just avoid us having to put someone on to authenticate it.

19 MS. KEDIA: We can dispense with the
20 authentication part of the witness' testimony if the
21 government so chooses, I don't have a problem that but I
22 do have a couple of questions for the witness, however.

23 MR. BURETTA: We will put the witness on.

24 THE COURT: You were attempting to avoid having
25 the witness called.

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1 MR. BURETTA: Correct, Judge.

2 THE COURT: What's your position, Mr. LaRusso?

3 MR. LaRUSSO: I hadn't had an opportunity to
4 talk to Mr. DeRoss.

5 (Pause)

6 MR. BURETTA: Over the next few days, Judge, we
7 will review the upcoming witnesses as well and propose
8 additional stipulations to the defense to see if we can't
9 save some time. Our direct case has been about eight
10 hours of the trial time so far. I hope the Court doesn't
11 have the impression that we are sort of making this too
12 onerous or something. We have tried to keep the direct
13 testimony, I believe, fairly short.

14 THE COURT: I don't have any impressions one way
15 or the other. You present your case and defendants
16 present theirs, if they are presenting any.

17 Any idea if you will be calling witnesses, Ms.
18 Kedia?

19 MS. KEDIA: I expect that we will, your Honor.

20 THE COURT: Do you know approximately how many?

21 MS. KEDIA: I don't at this point. I don't
22 think it should be extraordinarily long. I think it
23 should be a matter of a week, and obviously Mr. Cutolo
24 Jr., I'm not sure what has happened in terms of his
25 service, his being served with a subpoena.

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1 MS. MAYER: You haven't given us a subpoena yet.

2 THE COURT: If you want it on the record.

3 MS. MAYER: When I spoke with Ms. Kedia after
4 her cross-examination of Marguerite Cutolo, I indicated if
5 she would get us a subpoena, that we would get it to
6 Washington. She told me she probably wouldn't be able to
7 get it to me by the end of that day, but by the next day.
8 I haven't gotten it yet. When we get it, I will
9 immediately send it to Washington.

10 MS. KEDIA: I thought I did when I served the
11 other Cutolos.

12 THE COURT: They are here. We will bring the
13 jurors in.

14 (The jury enters the courtroom.)

15 THE COURT: Good morning. Nice to see you all.
16 Please be seated. We are ready to begin.

17 Sir, you are still under oath.

18 MR. GOLDBERG: At this time, the Government
19 moves to admit Government Exhibit 6-B, a blowup of 6-C,
20 which is already in evidence.

21 MS. KEDIA: No objection.

22 MR. LaRUSSO: No objection.

23 THE COURT: Received in evidence.

24 (Government Exhibits 6B and 6C received in
25 evidence.)

Cicero - Cross/Kedia

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1 MR. GOLDBERG: At this time, we want to hand out
2 12-A through D and 13-A through D .

3 No further questions for this witness.

4 THE COURT: Cross-examination.

5 **ANDRE CICERO,**

6 called as a witness, having been previously duly
7 sworn, was examined and testified as follows:

8 CROSS-EXAMINATION

9 BY MS. KEDIA:

10 Q Agent Cicero, good morning. C?

11 You have been testifying about three particular
12 surveillances that you were conducting in 1993, right?

13 A Two surveillances on October 2nd and -- sorry, three,
14 October 2nd, October 9th and October 16th.

15 Q Those were three Saturdays in 1993?

16 A Yes.

17 Q At that time, you had been an agent for two years,
18 right?

19 A Correct.

20 Q How long in October of 1993 had you been involved in
21 investigating Mr. Cutolo?

22 A It was an investigation on the Colombo family. Mr.
23 Cutolo was one of the members of the Colombo family that
24 was under investigation.

25 Q Were you surveilling other locations beyond the Bocce

Cicero - Cross/Kedia

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1 Club?

2 MR. GOLDBERG: Objection. Beyond the scope.

3 THE COURT: Sustained.

4 Q Was Bill Cutolo one of the subjects of your
5 investigation?

6 A Yes.

7 Q You understood that the Bocce Club, which you were
8 surveilling, was a club he ran, that he owned?

9 A Yes.

10 Q What were you investigating him for?

11 MR. GOLDBERG: Objection.

12 THE COURT: Sustained.

13 MS. KEDIA: Your Honor, may we approach?

14 THE COURT: Sure.

15 (Continued on the next page.)

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Sidebar

1663

1 (Sidebar.)

2 THE COURT: Your objection, Mr. Goldberg?

3 MR. GOLDBERG: My objection is it's beyond the
4 scope.

5 MS. KEDIA: He is testifying about these
6 particular surveillances, and I'm asking how those
7 specific dates, I'm not asking for years on end, what he
8 is investigating him -- why is he surveilling him.

9 THE COURT: What difference does it make?

10 MS. KEDIA: If he is testifying about a specific
11 surveillance the government has now put in on Mr. Cutolo
12 and various associates, it's certainly relevant as to what
13 the purpose of the surveillance is.

14 THE COURT: I don't think he has said what the
15 purpose of the surveillance is.

16 MS. KEDIA: He hasn't.

17 THE COURT: That's beyond the scope. What
18 difference does it make if he was surveilling them for
19 money laundering or for murder, whatever he was
20 surveillancing them for. He is here to testify that on
21 these three dates he took these pictures and these are the
22 people that were identified.

23 You are not contesting that the exhibits aren't
24 what they are purport to be?

25 MS. KEDIA: Certainly not.

Sidebar

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1 THE COURT: You are not contesting that they are
2 an inaccurate depiction of the location. What's your
3 point?

4 MS. KEDIA: This person is conducting a
5 surveillance on three specific dates as part of an
6 investigation on Mr. Cutolo. It is certainly relevant to
7 what the investigation is for. I'm not talking about
8 beyond this period of time. I'm not talking about whether
9 he investigated Mr. Cutolo in 1999. I'm limiting it to
10 what the government has put in, which is his surveillances
11 during this specific period of time.

12 MR. GOLDBERG: It's not relevant.

13 MS. KEDIA: That is within the scope certainly
14 of what the government just introduced to the jury.

15 THE COURT: They introduced pictures, locations
16 and people.

17 MS. KEDIA: From a surveillance agent who was
18 investigating Mr. Cutolo. That is the whole purpose. He
19 talked about being in an apartment and actually watching
20 the club from the apartment as part of his investigation.

21 THE COURT: I still don't see what the purpose
22 of surveilling them has to do with your cross-examination.
23 It isn't as if the government got up and said we were
24 surveilling them for money laundering, we were surveilling
25 them for suspicion of loan-sharking. They didn't say

Sidebar

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1 anything about it.

2 MS. KEDIA: That's why we crossed. I understand
3 the government wants to only put in the fact --

4 THE COURT: I think we are wasting a lot of the
5 time, Ms. Kedia, I really do, on this issue. The exhibits
6 went in, you don't have an objection to them. What the
7 purpose of this surveillance was is of no consequence.

8 (Sidebar concluded.)

9 (Continued on the next page.)

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Cicero - Cross/Kedia

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1 (In open court.)

2 THE COURT: Objection sustained.

3 BY MS. KEDIA: (Cont'd)

4 Q Agent Cicero, when you conduct surveillances like you
5 conducted on October 2nd, October 9th and October 16th of
6 1993, you ordinarily try to document -- and identify
7 everything you see, right?

8 Whether it be on a written report or whether it
9 be through photographs like the one that -- like the ones
10 introduced in evidence, right?

11 A Yes.

12 Q On October 2, 1993, you said you were conducting
13 surveillance from inside of an apartment building?

14 A From an apartment building window, yes.

15 Q Now, let me ask you, I'm going to show you what's in
16 evidence as Government Exhibit 6-B. In fact, if you can
17 step down over here, I would appreciate it.

18 Agent Cicero, you identified this Genovese
19 drugstore, right?

20 A Yes.

21 Q Is this the location from which you were conducting
22 surveillance?

23 A No.

24 Q Where is the location that you were conducting
25 surveillance?

Cicero - Cross/Kedia

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1 A It was an apartment building behind the parking lot
2 and behind this structure, this Genovese drugstore.

3 Q Meaning you can't see the apartment building in this
4 photograph?

5 A It's out of the photograph, yes.

6 Q You had a direct view to the front of The Bocce Club
7 from that apartment?

8 A No, we did not. It was a side angle of 63rd Street.
9 We had a side view of the side sidewalk.

10 Q Was this Genovese drugstore there at that time?

11 A Yes, it was. Well, the building was there and --

12 Q Meaning you don't know if the drugstore was there but
13 the structure was there?

14 A The structure was there.

15 Q How is it that you decided to set up in that
16 apartment building?

17 MR. GOLDBERG: Objection. Relevance.

18 THE COURT: Sustained.

19 Q You said you couldn't see directly the front of the
20 Bocce Club?

21 A Correct.

22 Q Could you see everyone that was going in and out of
23 the Bocce Club at that time?

24 A We saw people that were coming from that direction
25 and walking around toward the Bocce Club.

Cicero - Cross/Kedia

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1 Q You said you didn't specifically see Mrs. Cutolo, who
2 is in one of those pictures, right, that you identified?

3 A Yes.

4 Q You didn't see her walking into the Bocce Club?

5 A Could not determine whether she actually entered the
6 club.

7 Q Meaning from your view you couldn't even tell who was
8 going in and who was coming out specifically?

9 MR. GOLDBERG: Objection. Asked and answered.

10 THE COURT: Overruled.

11 A We could not see who exactly went in the building.

12 Q Now, let me show you what's in evidence as Government
13 Exhibits 12-A through 12-D. You have identified various
14 people in those photographs.

15 A Yes.

16 Q You identified each of the people who is labeled?

17 A Correct.

18 Q And the people who are not labeled you were unable to
19 identify here before this jury, that right?

20 A Correct.

21 Q Now, apart from these people that are identified in
22 these photographs, you took a number of photographs,
23 right?

24 A There were a number of photographs, yes.

25 Q And there were many other people apart from the ones

Cicero - Cross/Kedia

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1 that were identified in 12-A to D, right?

2 A There were others, there were other people, yes.

3 Q Do you recall a person -- you may be seated.

4 Do you recall a person by the name of Vinnie
5 Paladino?

6 MR. GOLDBERG: Objection. Beyond the scope.

7 THE COURT: Sustained.

8 Q One of the people you surveilled on October 2, 1993
9 was Vinnie Paladino, right?

10 A Yes.

11 Q And on that date, Mr. Cicero, what did you see Vinnie
12 Paladino doing?

13 A I would have to see a report to refresh my
14 recollection.

15 Q I'm going to show you what's marked as 3500 AC-1.
16 You can look at any part you like, and I would direct your
17 attention specifically to where I have the blue stickies.

18 A I have reviewed the report.

19 Q What was Vinnie Paladino doing on that day?

20 A Standing on the sidewalk in front of the club.

21 Q At some point, if you would look at the last page, he
22 was holding a bag, right?

23 A That's correct.

24 Q And in fact, you took photographs of him holding this
25 bag, right?

Cicero - Cross/Kedia

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1 A That's correct.

2 Q Do you know what was in the bag?

3 MR. GOLDBERG: Objection.

4 THE COURT: Overruled.

5 A No.

6 Q Now, similarly on October 16th, Vinnie Paladino was
7 present again, right?

8 If I can show you another document, Agent
9 Cicero?

10 A Yes.

11 Q If I can further direct your attention to page 9.

12 MS. KEDIA: I'm showing the witness 3500 AC-3,
13 your Honor.

14 A Yes, I see the highlighted portion.

15 Q Does that refresh your recollection that on October
16 16, 1993 Vinnie Paladino was also observed near the Bocce
17 Club?

18 A Yes.

19 Q And you similarly took pictures of Mr. Paladino then,
20 right?

21 A I don't have a photo log. There is a possibility we
22 did not take pictures of him on that date.

23 Q You have introduced photos that you did take on that
24 date, right?

25 A Yes.

Cicero - Cross/Kedia

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1 Q They are marked in evidence as 13-A through D, right?

2 A Yes.

3 Q Did you decide on certain occasions not to take
4 photographs of certain people on October 16th?

5 A We took pictures as we were able to.

6 Q When you were able to observe someone doing
7 something, right?

8 A We took pictures when we were able to take a picture.
9 The camera malfunctioned or we were having a difficulty,
10 if we were changing film, there is all kinds of things
11 that go on.

12 Q On that day, at a minimum, you observed Mr. Paladino
13 again carrying bags?

14 A That's correct.

15 Q What was in those bags?

16 MR. GOLDBERG: Objection. Asked and answered.

17 THE COURT: This is on a different date, this is
18 on the 16th. Overruled.

19 A No.

20 Q Now, on the 16th of October, there was a person named
21 Tommy Musso present as well, right?

22 A Yes.

23 Q Do you know who Tommy Musso is?

24 A I have been able to identify him, yes.

25 Q Who is he?

Cicero - Cross/Kedia

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1 A He was an associate in William Cutolo's crew.

2 Q This is during the 1993 period?

3 A Yes.

4 Q When you were actually doing surveillances?

5 A Yes.

6 Q You identified a person -- you identified several
7 people that you observed on October 9, 1993, right?

8 A Yes.

9 Q Amongst them were Frank Campanella and Dom Dionisio,
10 a person by the name of Lou Civello?

11 A Yes.

12 Q Who is Lou Civello?

13 MR. GOLDBERG: Objection, Judge, beyond the
14 scope.

15 THE COURT: You have pictures here?

16 Overruled.

17 MR. GOLDBERG: Can we approach?

18 (Continued on the next page.)
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Sidebar

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1 (Sidebar.)

2 MR. GOLDBERG: My objection, your Honor, is that
3 it's obvious Ms. Kedia is going to use this witness to try
4 to explore the ranks of the various people in the
5 pictures. It's beyond the scope of this witness'
6 testimony. If we had an expert witness or people inside
7 the crime family, she can ask these questions. He is
8 simply identifying who is in the pictures.

9 THE COURT: It's cross-examination. I will
10 permit it.

11 MR. GOLDBERG: It's hearsay.

12 (Sidebar concluded.)

13 (Continued on the next page.)
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Cicero - Cross/Kedia

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1 (In open court.)

2 THE COURT: Objection overruled.

3 BY MS. KEDIA: (Cont'd)

4 Q Agent Cicero, who is Lou Civello?

5 A He was a person who was associating at that social
6 club.

7 Q Was he a person associated with the Colombo family?

8 A We were unable to determine that at that point in
9 time.

10 Q What about Frank Saulo?

11 A He was a person that was associating at that club at
12 that time.

13 Q When you say at the club, you mean at the Bocce Club,
14 right?

15 A He was showing up at the club around the corners and
16 in the street around that club, yes.

17 Q Was he someone associated with the Colombo family?

18 MR. GOLDBERG: Objection. Lack of foundation.

19 THE COURT: Sustained.

20 Q Do you know whether he was someone associated with
21 the Colombo family?

22 A At that time, we were uncertain.

23 Q There was a person you identified by the name of
24 Joseph Russo?

25 A Yes.

Cicero - Cross/Kedia

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1 Q Do you know if he has any relationship to Andrew
2 Russo?

3 A Do I know if he has any relation? I know that he
4 does not have any relation to Andrew Russo.

5 Q Who is Joseph Russo?

6 A He was an associate of William Cutolo.

7 Q Was he an associate in the Colombo family?

8 A Yes.

9 Q He was one of the people you were able to identify
10 actually associated with the family?

11 A Correct.

12 Q During this time period that you were surveilling the
13 Bocce Club, were there a number of people who weren't
14 associated with the Colombo family in and around the Bocce
15 Club?

16 MR. GOLDBERG: Objection.

17 MS. KEDIA: Talking about on these three
18 particular dates.

19 THE COURT: Overruled.

20 A They were people that were associated with other
21 families of the New York families, the Gambino family,
22 Bonannos, coming near the club at times.

23 Q This person that you identified -- you can help me
24 recall which picture it was in. This person you
25 identified as being Marguerite Cutolo, the wife of Mr.

Cicero - Cross/Kedia

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1 Cutolo, which picture was that? I believe it was 13-C, do
2 you recall that?

3 A Yes.

4 Q Are you certain that that is who that is?

5 A The car pulled up and she got out. The car came back
6 to Marguerite Cutolo. And later on after arrests were
7 made, the same woman was coming to visit Mr. Cutolo at the
8 MDC.

9 Q So you are certain that that is who that is in that
10 photograph?

11 A Yes.

12 MS. KEDIA: I have nothing further.

13 MR. LaRUSSO: No questions, your Honor.

14 MR. GOLDBERG: No redirect.

15 THE COURT: You can step down, sir.

16 MS. MAYER: The government calls Special Agent
17 Tod Wilson.

18 **TOD WILSON,**

19 having been first duly sworn, was

20 examined and testified as follows:

21 THE CLERK: Have a seat. Please state and spell
22 your name for the record.

23 THE WITNESS: Tod Wilson, T-O-D, W-I-L-S-O-N.

24 **DIRECT EXAMINATION**

25 **BY MS. MAYER:**

Wilson - Direct/Mayer

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- 1 Q By whom are you employed?
- 2 A Federal Bureau of Investigation.
- 3 Q What is your job title?
- 4 A I'm a Special Agent.
- 5 Q How long have you been a Special Agent with the FBI?
- 6 A 17 years.
- 7 Q Where are you currently assigned, Special Agent
- 8 Wilson?
- 9 A Currently the Miami Division.
- 10 Q In April 1999, where were you assigned?
- 11 A I was assigned to the New York Division, Squad S03,
- 12 which is a surveillance squad.
- 13 Q Were you working on April 12, 1999?
- 14 A Yes.
- 15 Q What was your assignment that day?
- 16 A I was assigned to surveil a location in 2005 West 8th
- 17 Street in Brooklyn.
- 18 Q Did you, in fact, go to surveil that location that
- 19 day?
- 20 A Yes.
- 21 Q Approximately what time did your surveillance begin?
- 22 A 12:45 p.m.
- 23 Q Approximately what time did it end?
- 24 A 2:00 p.m.
- 25 Q As part of your surveillance that day, April 12,

Wilson - Direct/Mayer

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1 1999, did you have any equipment with you?

2 A Yes, I had a video camera.

3 Q As part of your standard procedure, did you check
4 your video camera prior to using it?

5 A Yes. You always check your equipment before you
6 start. Check it and make sure the battery is charged.
7 Check to make sure there is a new tape. Check to make
8 sure the time is correct.

9 Q Tell the jury generally what did you observe that day
10 at 2005 West 8th Street in Brooklyn?

11 A I observed a group of individuals congregating in the
12 area, coming and going, talking to each other.

13 Q Did you make a recording, a video recording in
14 connection with your April 12, 1999 surveillance?

15 A Yes, I did.

16 MS. MAYER: Judge, may I approach the witness?

17 THE COURT: Yes.

18 Q Special Agent Wilson, I'm showing you what's been
19 marked Government Exhibit 14 for identification. Do you
20 recognize it?

21 A Yes, ma'am.

22 Q What is it?

23 A It's a DVD of the videotape that I took that day.

24 Q How do you recognize it?

25 A It has the -- my initials on it and the date that I

Wilson - Direct/Mayer

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1 reviewed it.

2 Q So you have reviewed this prior to your testimony
3 today?

4 A Yes.

5 Q Is it a fair and accurate depiction of your
6 observations on surveillance on April 12, 1999?

7 A Yes.

8 MS. MAYER: Judge, I offer Government Exhibit
9 14.

10 MS. KEDIA: No objection.

11 MR. LaRUSSO: No objection.

12 THE COURT: Received in evidence.

13 (Government Exhibit 14 received in evidence.)

14 MS. MAYER: May I publish it to the jury?

15 THE COURT: Yes.

16 (Tape played.)

17 Q Special Agent Wilson, can you tell the jury where
18 these individuals are standing, at what location?

19 A They are standing in the vicinity of 2005 West 8th
20 Street in Brooklyn.

21 Q Those individuals that just walked out, the one with
22 the cigar, the baseball cap, those are individuals that
23 you observed on that day?

24 A That's correct.

25 Q Where are you taking that video from, Special Agent

Wilson - Cross/Kedia

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1 Wilson? Where are you located?

2 A I would have been in the back of a surveillance van,
3 the surveillance vehicle that I used was a mini van. I'm
4 not exactly sure where I was parked on that day.

5 Q The view just backed up there, we saw the window of a
6 car, that was the car that you were inside of when you
7 were conducting the surveillance?

8 A Yes, that's correct.

9 Q Do you remember what the color the mini van that you
10 were driving was?

11 A I believe it was green, but -- I believe that's
12 correct. I believe it was a green Dodge Caravan at the
13 time.

14 Q Thank you.

15 MS. MAYER: I don't have any additional
16 questions.

17 MS. KEDIA: May I, your Honor?

18 THE COURT: Yes.

19 CROSS-EXAMINATION

20 BY MS. KEDIA:

21 Q Agent Wilson, good morning.

22 A Good morning.

23 Q You testified about this address at which you were
24 conducting surveillance, 2005 West 8th Street?

25 A Yes.

Wilson - Cross/Kedia

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1 Q What is at that address?

2 A I'm not sure. That was the address we were given.

3 I'm assuming it was a house of some type, I believe.

4 Q Do you know the Teresi Club?

5 A No, ma'am.

6 Q So when you went to conduct surveillance on this
7 particular date, you were not told -- how is it you came
8 to conduct surveillance on this date?

9 A It was an assignment I was given just to observe and
10 take video of individuals outside this location.

11 Q You weren't specifically told what the location was,
12 whether it was a social club or a home or what it was?

13 A I don't believe so. No, ma'am.

14 Q To this day, you don't know?

15 A No, ma'am.

16 Q Now, this video that we saw a little clip of, it's a
17 much longer video, right?

18 MS. MAYER: I object to the form of that, Judge.

19 THE COURT: Your objection is sustained.

20 Rephrase it.

21 MS. KEDIA: Yes, your Honor.

22 Q You were taking video for a longer period of time
23 that day?

24 A Well, I was on video surveillance. Now, I may have
25 started and stopped the tape numerous times for different

Wilson - Cross/Kedia

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1 reasons.

2 Q Well, this clip that we just saw, is that the entire
3 video that you took?

4 A As I recall, that was the video that I took.

5 Q You were conducting surveillance from 12:45 to 2:00
6 p.m., is that right?

7 A Yes, ma'am.

8 Q Is your testimony you stopped and started the
9 recorder and this constitutes the stopping and starting as
10 well?

11 A Yes, ma'am.

12 Q When is it that you first saw people on that day?

13 A The time should be on the tape when I started the
14 video recording.

15 Q When we see on the corner 1:01, that's the time that
16 it is on that date?

17 A Yes, ma'am.

18 Q And what happened between 1:01 and 2:00 p.m.?

19 A Again, I was on surveillance during that time. Was
20 the tape running during that whole time? No, ma'am, it
21 was not.

22 Q These people in the video, can you identify them?

23 A No, ma'am.

24 Q You saw there was a point in which, it's not on the
25 screen now, but there was a long period of time where

Wilson - Cross/Kedia

1683

1 there were these gentlemen standing by a white car, right?

2 Did you see that on the video?

3 A Yes.

4 Q That was the video that you took, they were standing
5 by the white car?

6 A Yes.

7 Q And this white car is the white Mercedes belonging to
8 Joseph Campanella, right?

9 MS. MAYER: Objection.

10 THE COURT: Sustained.

11 Q Do you know whether this car is the white Mercedes
12 belonging to Joseph Campanella?

13 A No, ma'am.

14 Q Do you know who was driving it that day?

15 A No, ma'am.

16 Q This video, Agent Wilson, was taken April 12, 1999?

17 A Yes, ma'am.

18 Q That's approximately six weeks before Mr. Cutolo
19 disappeared?

20 MS. MAYER: Objection. Lack of foundation.

21 THE COURT: Sustained.

22 Q Do you know when Mr. Cutolo disappeared?

23 A No, ma'am.

24 Q You testified that at that time you were driving a
25 Dodge Caravan?

Wilson - Cross/Kedia

1684

1 A I believe that's correct. We switch vehicles quite
2 often during surveillance. But I believe on that day
3 that's probably what I was driving.

4 Q And you testified that you believe it to be green?

5 A Again, I believe that's correct. It has been quite a
6 while ago. And we did switch vehicles quite often, but
7 that is what I normally drove.

8 Q Were you asked to check on that before you came and
9 testified here?

10 MS. MAYER: Objection.

11 THE COURT: Sustained.

12 Q Were you asked that question before you came and
13 testified here, what you were driving on that day?

14 MS. MAYER: Objection.

15 THE COURT: Sustained.

16 Q Agent Wilson, were you actually surveilling Joseph
17 Campanella on that date?

18 A No, ma'am. I was assigned a location to run video
19 surveillance.

20 Q And the location was this 2005 West 8th Street?

21 A Yes, ma'am.

22 MS. KEDIA: Nothing further.

23 MR. LaRUSSO: No questions.

24 THE COURT: Any redirect?

25 MS. MAYER: No, Judge.

Scanlan - Direct/Buretta

1685

1 THE COURT: Thank you. You can step down.

2 MR. BURETTA: The government calls Special Agent
3 Patrick Scanlan.

4 **PATRICK SCANLAN,**

5 having been first duly sworn was

6 examined and testified as follows:

7 THE COURT: State your name and spell it.

8 THE WITNESS: Patrick Scanlan, S.C.A.N.L.A.N.

9 DIRECT EXAMINATION

10 BY MR. BURETTA:

11 Q Where do you currently work?

12 A I'm assigned in Washington D.C.

13 Q With who?

14 A With the FBI.

15 Q Sir, directing your attention to New York City, did
16 you work in New York City at some point?

17 A Yes, sir, I did.

18 Q When did you start working in New York City as a
19 Special Agent with the FBI?

20 A In early 1999.

21 Q At some point in 1999, were you conducting
22 surveillance?

23 A Yes, sir.

24 Q Directing your attention to May 26th of 1999, were
25 you conducting surveillance on that day?

Scanlan - Direct/Buretta

1686

1 A Yes, sir.

2 Q Tell the jury approximately what time on May 26, 1999
3 you started conducting surveillance.

4 A It was approximately 1:45 in the afternoon.

5 Q What was the first location you went to at 1:45 p.m.
6 on May 26, 1999?

7 A We started at 1435 Broadway in Manhattan.

8 Q Did you know at that time what that location was,
9 1435 Broadway?

10 A It had been communicated to me from the surveillance
11 team leader that would be the starting location, and it
12 was the location that had been frequented by Mr. Cutolo.

13 Q On that day, May 26, 1999, were you attempting to
14 surveil William Cutolo, Sr.?

15 A Yes, sir, that's correct.

16 Q Did you ever see him that day?

17 A No, I did not.

18 Q How long were you at the location 1435 Broadway on
19 May 26, 1999?

20 A I remained at that location until approximately 3:00
21 p.m.

22 Q Was that a little over an hour that you were
23 surveilling at that location?

24 A That's correct, sir.

25 Q Did you see William Cutolo, Sr. leave that location?

Scanlan - Direct/Buretta

1687

1 A No, I did not.

2 Q Did you see him go to that location?

3 A No, sir.

4 Q At that point, when you terminated your surveillance
5 in Manhattan, did you go somewhere else?

6 A Yes, sir, I was instructed to go to a location in
7 Brooklyn.

8 Q Where did you go in Brooklyn?

9 A It was to an auto body shop, I believe it was Ralph
10 and John's in the vicinity of 56th Street.

11 Q Approximately what time on May 26, 1999 did you get
12 to Ralph and John's?

13 A I believe I arrived around approximately 3:15.

14 Q When you started your surveillance that day in
15 Manhattan, about how many surveillance agents were you
16 with?

17 A It was a team of approximately six.

18 Q When you went to Brooklyn, did the entire team of six
19 go with you to Ralph and John's?

20 A No.

21 Q When you got to Ralph and John's that afternoon, did
22 you see anything at Ralph and John's?

23 A Yes, I saw the vehicle that I recognized as having
24 previously been driven by Mr. Cutolo.

25 Q What kind of license plate did that car have?

Scanlan - Direct/Buretta

1688

1 A It was a Florida license plate.

2 Q What was the license plate number?

3 A WPG72E.

4 Q What kind of car was that?

5 A It was a maroon SUV, I believe a Ford.

6 Q Where was that maroon Ford SUV at Ralph and John's?

7 A I remember it was parked in the vicinity of the
8 business that had been pointed out to me by another member
9 of the surveillance team.

10 Q At approximately what time on May 26th did you see
11 William Cutolo Sr.'s Ford SUV, maroon, at Ralph and
12 John's?

13 A I made the observation approximately 3:16 in the
14 afternoon.

15 Q Approximately how long did you stay at Ralph and
16 John's watching that vehicle?

17 A I stayed at that location until approximately 8:00
18 p.m., I think a little before 8:00 p.m. on that day.

19 Q Did you ever see William Cutolo, Sr. come to his
20 vehicle at Ralph and John's that day?

21 A No, I did not.

22 Q Did you see any other individual go to that vehicle
23 that you understood to be William Cutolo, Sr.'s?

24 A Can you repeat that?

25 Q Did you see anyone other than William Cutolo, Sr. go

Scanlan - Direct/Buretta

1689

1 to that vehicle that day?

2 A Yes, I saw a white male unknown to me go to that
3 vehicle.

4 Q Did you know who he was?

5 A No, sir.

6 Q Did you ever figure out who he was?

7 A I personally did not.

8 Q Once you saw this unknown individual go to William
9 Cutolo, Sr.'s car, what did that individual do?

10 A He drove from the location in that vehicle.

11 Q Did you follow him?

12 A Yes, I did.

13 Q Where did that individual go with William Cutolo,
14 Sr.'s car?

15 A He went a short drive from the location of the auto
16 body shop. I would need to refresh my memory as to the
17 physical address of the location.

18 MR. BURETTA: May I approach the witness?

19 THE COURT: Yes.

20 Q I show you 3500 PS-1.

21 A Thank you, that helps.

22 Q Does that refresh your memory as to where the unknown
23 individual drove William Cutolo, Sr.'s car?

24 A Yes, sir. He went to the location in the vicinity of
25 11th Avenue and 63rd Street.

Scanlan - Cross/Kedia

1690

1 Q Was there some premises located at 11th Avenue and
2 63rd Street?

3 A Yes, sir, it was communicated to me that was a social
4 club that was known to the surveillance team.

5 Q Once you saw that vehicle of William Cutolo, Sr. go
6 to the social club, did you continue surveilling him?

7 A Yes.

8 Q How long did you continue your surveillance that day?

9 A Until approximately 9:30 in the evening.

10 Q Did you, up until the end of your surveillance at
11 9:30 p.m. on May 26, 1999, see William Cutolo, Sr.?

12 A No, sir.

13 MR. BURETTA: No further questions.

14 CROSS-EXAMINATION

15 BY MS. KEDIA:

16 Q Special Agent Scanlan, good morning.

17 A Good morning.

18 Q On May 26, 1999, you testified that you were part of
19 a surveillance team of six?

20 A I believe it was approximately six members.

21 Q Were there other surveillance teams assigned that day
22 as well?

23 A I'm not sure.

24 Q Did you work with other surveillance teams?

25 A I'm not familiar with any other surveillance teams

Scanlan - Cross/Kedia

1691

1 that day.

2 Q Who was your surveillance team leader?

3 A I believe Jeff Karzai.

4 Q Who were the other members of your surveillance team?

5 A I would need -- I know Frank Cultrera was another
6 agent out there. Joe Suozzi. And again, if I could look
7 at this to refresh my memory... William Hutton and Paul
8 McMahon.

9 Q Was there an agent by the name of Gary Pontecorvo
10 involved in your surveillance?

11 A Involved in the surveillance, no, ma'am. As far as
12 physically, if I understand your question correctly, no,
13 ma'am.

14 Q Was he involved in some other way?

15 A I believe he would be the case agent involved in the
16 investigation, but as far as the surveillance, no, ma'am.

17 Q Are you aware of whether he was surveilling William
18 Cutolo on that same day?

19 A If he was, I'm not aware.

20 Q You didn't communicate with each other on that date,
21 to your recollection?

22 A No, ma'am.

23 Q You testified that you remained at 1435 Broadway
24 until 3:00 p.m. that day, right?

25 A Until shortly -- approximately 3:00 p.m.

Scanlan - Cross/Kedia

1692

1 Q Then you were instructed to go to another location,
2 an auto body shop?

3 A Yes, ma'am.

4 Q Who instructed you to go to the location?

5 A I don't remember which member of the team, if it was
6 the team leader or another member at that location.

7 Q Meaning one of the six of you?

8 A Yes, ma'am.

9 Q As opposed to anyone else?

10 A Yes, ma'am.

11 Q One of the six of you had already seen the vehicle
12 that you were trying to find, Mr. Cutolo's vehicle, at
13 that location?

14 A That's right.

15 Q Do you know what time that was?

16 A I don't.

17 Q Do you know what time you received an instruction to
18 go to that location?

19 A As I said, it was shortly before 3:00 p.m.

20 Q Then it took you approximately 15 to 20 minutes to
21 get to that location?

22 A I would estimate.

23 Q You testified about having seen a vehicle once you
24 got there that was registered -- sorry.

25 You recognized a vehicle with the license plate

Scanlan - Cross/Kedia

1693

1 number WPG72E, right?

2 A That's correct.

3 Q How is it that you recognized it?

4 A If I can explain, I was a police officer in Florida
5 shortly before arriving in New York, so the plate in
6 Manhattan stood out as distinct. It was the plates I had
7 been around all my life in Florida. It was easily
8 recognizable amongst other vehicles on the street, plus I
9 had seen Mr. Cutolo in that vehicle before.

10 Q When did you see him before?

11 A As recently as the day before, I believe, May 25th.

12 Q You were surveilling him on that date as well?

13 A Yes, ma'am.

14 Q What was happening on that date?

15 A I'm not sure I understand the question. We were
16 conducting surveillance.

17 Q Do you know what he was doing? Do you have any
18 recollection what he was doing that date?

19 A I would have to look to refresh my memory.

20 Q What about the week before? Did you ordinarily
21 conduct surveillance of Mr. Cutolo on Wednesdays?

22 A I don't know that we had a set pattern of Wednesdays.
23 I was relatively new to the team.

24 Q Do you recall whether you surveilled him the week
25 before?

Scanlan - Cross/Kedia

1694

1 A Not without looking. Me personally, without looking
2 at the list of surveillance logs, it's very possible the
3 team did.

4 Q If I can show you what I'm marking as Defendant's
5 Persico AA.

6 A Yes, ma'am, thank you.

7 Q Does that refresh your recollection that on the 19th
8 of May you were also surveilling Mr. Cutolo?

9 A Yes, ma'am, it does.

10 Q On the 19th of May, Mr. Cutolo was at the union like
11 you expected him to be on the 26th of May?

12 A Sorry?

13 Q The 1435 Broadway location, is that where Mr. Cutolo
14 was on the 19th of May?

15 A Doesn't indicate that here on this surveillance log.

16 Q Where is it that you were surveilling him on the 19th
17 of May? Does that refresh your recollection it was the
18 same location, that's 1435 Broadway?

19 A The intersection, yes, ma'am.

20 Q From the union, where did Mr. Cutolo go?

21 A I can't -- from the surveillance log, I can't --
22 looks like 11th Street and 63rd Street, sorry, 11th Avenue
23 and 63rd Street in Brooklyn. However, that observation
24 was made by another member of the team.

25 Q Not by you personally?

Scanlan - Cross/Kedia

1695

1 A No, ma'am.

2 Q Did you see Mr. Cutolo go anywhere?

3 A No, ma'am. The other observations I made on that day
4 were not of Mr. Cutolo.

5 Q Did you leave the surveillance team at some point?

6 A After the surveillance was discontinued at 9:30 p.m.,
7 I left.

8 Q So you were there -- you were with the rest of the
9 surveillance team until 9:30 p.m.?

10 A In the vicinity. I wasn't necessarily the person
11 making the direct observations, but I was supporting the
12 surveillance by being in the area.

13 Q Now, let me ask you, on the 26th of May, once you
14 didn't see Mr. Cutolo's car at the union, you were asked
15 to go to this auto body shop, right?

16 A Yes.

17 MR. BURETTA: Asked and answered.

18 THE COURT: Overruled.

19 Q You did see Mr. Cutolo's car on the 19th of May, is
20 that right?

21 A That's correct.

22 Q Did you see it leave the union garage area?

23 MR. BURETTA: Objection. Beyond the scope at
24 this point. Lack of foundation as to this witness for the
25 19th.

Scanlan - Cross/Kedia

1696

1 THE COURT: Sustained.

2 MS. KEDIA: If he knows.

3 THE COURT: If he knows. Not from reading the
4 sheet.

5 A Could you repeat the question?

6 Q Did you see his vehicle leave that area where he was
7 parked by the union on that day?

8 A I didn't make that observation myself.

9 Q When you work with a surveillance team, do you report
10 to each other what observations are made?

11 MR. BURETTA: Objection.

12 THE COURT: Sustained.

13 Q On the 26th of May, there were six of you, right?

14 A Yes.

15 Q Were you communicating with each other?

16 A Yes, ma'am. Of course.

17 Q In fact, someone communicated to you they had seen
18 Mr. Cutolo's vehicle by Ralph and John's?

19 MR. BURETTA: Asked and answered.

20 THE COURT: Overruled.

21 A Yes, ma'am.

22 Q On the 26th of May, one of your surveillance team
23 actually stayed at 1435 Broadway, right?

24 A That's correct.

25 Q Why was that?

Scanlan - Cross/Kedia

1697

1 A In anticipation perhaps Mr. Cutolo would come out of
2 that location.

3 Q Even though you had seen his vehicle elsewhere?

4 A Yes, ma'am.

5 Q What happened to -- let me ask you, you said you
6 started at 1:45 p.m. on the 26th of May.

7 A Approximately.

8 Q Was there a morning surveillance team?

9 A I'm not aware of that.

10 Q Is 1:45 p.m. the time you normally started
11 surveillance of Mr. Cutolo?

12 A There was no set routine. I just did what the
13 surveillance team leader asked us to start our shift on
14 that day. I didn't have an established time we started.

15 Q Sometime you would start at 10:00 in the morning or
16 11:00?

17 A I believe --

18 MR. BURETTA: Objection.

19 THE COURT: Sustained.

20 Q If you know.

21 MR. BURETTA: Objection.

22 THE COURT: Sustained.

23 Q Now, you testified that at 7:57 p.m. you made an
24 observation of a person entering that vehicle with the
25 license plate number WPG72E, right?

Scanlan - Cross/Kedia

1698

1 A That's correct.

2 Q Had you seen that person before during your
3 surveillances?

4 A I don't recall having seen that person before.

5 Q He is not anyone you had identified before or you
6 were able to identify later?

7 A Ma'am, I don't know if he was identified later, but
8 he was not a person that I -- no.

9 Q When you prepare surveillance reports, Agent Scanlan,
10 when you are able to identify that person, you know it,
11 right?

12 MR. BURETTA: Objection.

13 THE COURT: Sustained.

14 Q When you prepare a surveillance report, you note the
15 identity of any persons who are known to you, right?

16 A Of course.

17 Q And if it becomes known to you even at a later date,
18 you note the identity on the surveillance report, right?

19 A If I understand your question, you go back and note
20 it?

21 Q Yes.

22 A They would normally be noted in the surveillance log
23 on the date that they are identified, if I understand what
24 you are asking.

25 Q Right. But let's say on the 26th of May, you were

Scanlan - Cross/Kedia

1699

1 unable to identify this person?

2 A That's correct.

3 Q If you learned the identity of the person on the 27th
4 of May, would you go back and note it?

5 MR. BURETTA: Objection.

6 THE COURT: Overruled.

7 A Would that be customary? I personally would do that.
8 I can't speak to what other agents would do.

9 Q You would do it?

10 A Sure.

11 Q You were not able to do that on this particular
12 occasion?

13 A I was not.

14 Q There was an agent you identified working with you as
15 part of your surveillance team on that day by the name of
16 Frank Cultrera?

17 A Sure.

18 Q Where did he go on that day?

19 A I would need to refresh my memory from the log.
20 Based on the log, Frank began in Manhattan and then at
21 approximately 2:50 p.m. he initiated surveillance in
22 Brooklyn at a location known as Bruno's.

23 Q What's Bruno's?

24 MR. BURETTA: Objection. This is not this
25 witness' testimony.

Scanlan - Cross/Kedia

1700

1 MS. KEDIA: Your Honor, it's on the 26th of May.

2 THE COURT: Please approach for a moment.

3 (Continued on the next page.)

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Sidebar

1701

1 (Sidebar.)

2 MR. BURETTA: There is no foundation for this.
3 This witness made observations, he noted them and he
4 testified about them. What we are doing now is taking
5 this report and asking him to testify about what other
6 people did.

7 THE COURT: Are you bringing in Mr. Cultrera?

8 MR. BURETTA: Yes.

9 THE COURT: Objection is sustained.

10 MS. KEDIA: That's fine, if they are bringing in
11 Mr. Cultrera. I would ask certainly to be able to ask
12 this witness about observations he either made or knows
13 about, so that I won't --

14 THE COURT: When you say "he"?

15 MS. KEDIA: Agent Scanlan, the one on the
16 witness stand, that either he made or he communicated --
17 obviously he testified about having known the vehicle was
18 at Ralph and John's because it was communicated to him by
19 one of the other members of the surveillance team. So
20 anything he knows personally about was communicated.

21 THE COURT: That's what he said. That's not
22 what you are asking.

23 MS. KEDIA: That's what I mean to be asking.

24 MR. BURETTA: That's hearsay. She is asking
25 what other people told him. That's hearsay.

Sidebar

1702

1 If she wants to ask the other surveillance
2 witnesses, she can do that when they testify. To ask this
3 witness what did he tell you is hearsay.

4 MS. KEDIA: When the government asked whether he
5 was instructed to report to a place, that's hearsay and
6 the government elicited that.

7 MR. BURETTA: You are allowed to cross on that
8 to get into --

9 THE COURT: On what the government asked, being
10 assigned to go to 11th and 63rd or Ralph and John's,
11 wherever you were assigned to do. You can ask who told
12 him that, what, if anything, was stated, et cetera.

13 (Sidebar concluded.)

14 (Continued on the next page.)

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Scanlan - Cross/Kedia

1703

1 (In open court.)

2 THE COURT: The objection is sustained.

3 BY MS. KEDIA: (Cont'd)

4 Q Agent Scanlan, we were just talking about something
5 that another agent did by the name of Agent Cultrera,
6 right?

7 A Yes.

8 Q Those aren't observations that you personally made,
9 those are observations that he made?

10 A That's correct.

11 Q And you all note your observations together on one
12 report, is that right?

13 MR. BURETTA: Objection.

14 THE COURT: Overruled.

15 A Yes, ma'am, it's a compilation of the observations.

16 Q So explain to the jury how that is done, you each
17 take notes of what it is that you see when you are
18 conducting a surveillance?

19 THE COURT: This is as to the 26th?

20 MS. KEDIA: Yes, your Honor.

21 MR. BURETTA: I don't object as to this witness
22 but to anything else.

23 THE COURT: As to this witness on the 26th.

24 MS. KEDIA: That's all I'm asking.

25 A Can you repeat the question, please?

Scanlan - Cross/Kedia

1704

1 Q When you prepare a surveillance report, explain how
2 it's done.

3 A There is an agreement at the beginning of the shift
4 that one person will keep a master log of the events of
5 that day. Team members, if they make a significant
6 observation, will then contribute to that, having noted
7 the time they make an observation.

8 Q Meaning you don't take individual notes?

9 A No, ma'am. That's not credible. If I make an
10 observation, I will make a note of that and then that will
11 be provided to the surveillance team.

12 Q At a later time?

13 A During -- before the end of that shift so as to have
14 a reflection of what transpired that day.

15 Q Then one note is prepared?

16 A You will have an opportunity to review that and sign
17 if the observation -- make sure the time is consistent
18 with when you observed that.

19 Q And you initial any observations that you personally
20 make?

21 A That's right.

22 Q Do you provide the notes to the agent that's
23 preparing the master surveillance report?

24 A Sorry.

25 Q Your individual notes, do you provide them to the

Scanlan - Cross/Kedia

1705

1 person who is preparing the master report?

2 A I believe that's how it's typically done. Yes,
3 ma'am.

4 Q You testified about having seen -- recognizing this
5 vehicle, WPG72E from prior occasions, right?

6 A That's correct.

7 Q In fact, you didn't see it or you didn't see Mr.
8 Cutolo in that vehicle on the 26th of May, right?

9 A That's right.

10 Q Did you see anyone in that vehicle apart from this
11 person at 8:00 in the evening? You were unable to --

12 A Other than this person, I believe that was the only
13 person I witnessed in the vehicle.

14 Q When you went to Ralph and John's at 3:15, was there
15 work being done on the vehicle?

16 A I don't recall, ma'am.

17 Q How long were you at Ralph and John's observing the
18 vehicle?

19 A I arrived at approximately -- made the observation of
20 the vehicle there at that location at approximately 3:16
21 p.m. and remained there until it departed the area at
22 approximately 7:57.

23 Q So a little less than five hours?

24 A That's correct.

25 Q And you didn't see any work being done on the vehicle

Scanlan - Cross/Kedia

1706

1 during that period of time, is that right?

2 MR. BURETTA: Objection. Asked and answered.

3 THE COURT: Sustained.

4 Q Did you make any observations other than the fact
5 that the vehicle was sitting there?

6 A Relevant to this surveillance?

7 Q Relevant to the vehicle?

8 A No, ma'am.

9 Q Did you see a mechanic by the vehicle?

10 A I don't recall.

11 Q Now, you had an opportunity to follow this vehicle
12 once again, right?

13 A Yes, when it left that location, the auto body shop.

14 Q And then, in fact, a few days later you again
15 followed the vehicle, right?

16 A That's correct.

17 Q On June 1, 1999?

18 A That's correct.

19 Q You followed it from Mr. Cutolo's home at 515 Butler
20 Boulevard, right?

21 A That's correct.

22 Q Who was driving the vehicle on that date?

23 A Someone other than Mr. Cutolo, a person that was
24 communicated to me was his son.

25 Q Was --

Scanlan - Cross/Kedia

1707

1 A His son.

2 Q It had been parked at the home at 515 Butler
3 Boulevard?

4 A That's where it left from.

5 Q Where is it you observed the son take the vehicle?

6 A I would need to see the log to refresh my memory of
7 that day.

8 Q I show you what's marked as 3500 JXC-1.

9 Where is it that the vehicle went that day?

10 A It departed the residence and went to the first
11 location. Again, where it went first is not what I
12 observed, it was what another team member --

13 Q Were you following the vehicle?

14 A I was involved in the surveillance, but I was not the
15 closest car.

16 Q So there was another car ahead of you?

17 A That's correct.

18 Q What did you observe?

19 MR. BURETTA: Objection. Lack of foundation.

20 THE COURT: Overruled. Did you have an
21 opportunity to observe anything about the car?

22 THE WITNESS: No, ma'am, I was farther back away
23 from the vehicle while other team members were located
24 initially.

25 Q Later?

Scanlan - Cross/Kedia

1708

1 A Later I had an opportunity to be closer to the
2 vehicle.

3 Q Where did you see it?

4 A The first observation I made was in the vicinity of
5 Midland Avenue and Colony Avenue.

6 Q Do you know where that is? Can you tell the jury
7 where that is in relation to the home? The home is in
8 Staten Island?

9 A Yes, ma'am.

10 Q Are we talking about a location in Brooklyn or is
11 that a location in Staten Island?

12 A I believe -- again, I'm not positive whether it was
13 Staten Island or Brooklyn. I was very new to the New York
14 area.

15 Q Then at some point the vehicle travels to 270 89th
16 Street in Brooklyn, right?

17 A Yes.

18 Q What time does it get to 270 89th Street?

19 A This is an observation. As far as the arrival time,
20 someone else made -- is it appropriate for me to --

21 MR. BURETTA: Objection.

22 THE COURT: Sustained.

23 Q Forget about what time. Mr. Cutolo, Jr., as far as
24 you observed that day, is the person driving the vehicle?

25 A Yes, ma'am.

Scanlan - Cross/Kedia

1709

1 Q I'm going to show you what I will mark Defendant's
2 Persico AB.

3 Agent Scanlan, I show you what I have marked
4 Defendant's Persico AB.

5 A What am I looking for?

6 Q Is this a fair and accurate depiction of the area in
7 Brooklyn including the area 89th Street and 3rd Avenue?

8 A It appears to be.

9 MS. KEDIA: I offer Exhibit AB.

10 MR. BURETTA: Objection.

11 THE COURT: Come on up.

12 (Continued on the next page.)
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Sidebar

1710

1 (Sidebar.)

2 THE COURT: Your objection.

3 MR. BURETTA: First, as to the exhibit, there
4 are a bunch of markings on it that this witness can't
5 identify.

6 THE COURT: Okay.

7 MR. BURETTA: As to specific locations, I don't
8 know what they are, and he hasn't been asked about them,
9 and I frankly doubt he can sit here now and say that's
10 that.

11 MS. KEDIA: I'm only -- sorry.

12 MR. BURETTA: Secondly, what she is asking to
13 do, putting aside this exhibit, for him to talk about a
14 location he didn't surveil that day -- the reason I didn't
15 ask him, he essentially didn't see anything. There will
16 be other people.

17 MS. KEDIA: He said he did.

18 THE COURT: He said he subsequently observed.

19 MR. BURETTA: I agree. There will be other
20 witnesses here that will talk about what you really care
21 about, which is where he went the whole day. But in any
22 event, he didn't surveil the person to the location she is
23 asking him to identify on this log.

24 MS. KEDIA: I just asked that question and he
25 said he did.

Sidebar

1711

1 THE COURT: I think what he said, which I find
2 confusing, that he subsequently saw the car at a different
3 location.

4 MS. KEDIA: Like in the middle it seems he lost
5 him and apparently he picked him up again.

6 THE COURT: You don't contest that.

7 MR. BURETTA: No, I don't contest what he saw.
8 But I object to the board.

9 THE COURT: You don't need the board.

10 MS. KEDIA: It's the best map I have. Before I
11 submit it in evidence, I can get rid of the other
12 markings. It's just the map I had that showed Kimball
13 Street. I'm asking about an area he observed the vehicle
14 go that day.

15 MR. BURETTA: I object. It has all these other
16 marks.

17 MS. KEDIA: I will get rid of the markings.

18 THE COURT: What kind of markings are we talking
19 about here?

20 MR. LaRUSSO: They were all accurate markings,
21 though.

22 MR. BURETTA: All these addresses listed. I
23 have never seen this exhibit before.

24 MS. KEDIA: They are just addresses, your Honor,
25 that are highlighted that have nothing to do with the

Sidebar

1712

1 questions I'm asking this agent. This is a map of
2 Brooklyn obviously. The addresses that are highlighted
3 are the addresses that are pointed out.

4 If the government wants me to submit this to the
5 jury without the green, I don't have a problem with that.
6 I want to show them a map of Brooklyn. It's the only one
7 I have.

8 THE COURT: It has a lot of extraneous material.

9 MS. KEDIA: I will get rid of the extraneous
10 material. I don't have a problem with that. I can put
11 white tape over it.

12 THE COURT: Do you want me to get you a map off
13 Mapquest, if we take a break?

14 MS. KEDIA: Certainly.

15 THE COURT: We don't need anymore trees being
16 destroyed.

17 MS. KEDIA: That's why I didn't create another
18 one.

19 MR. BURETTA: It would be helpful to see them in
20 advance.

21 THE COURT: That's my primary objection. We are
22 wasting a lot of time.

23 You just want to bring out the location?

24 MS. KEDIA: In relation to 92nd and Shore Road.

25 MR. BURETTA: I don't care if you ask about

Sidebar

1713

1 that.

2 THE COURT: You can ask about that. I'm sure he
3 will say he doesn't know.

4 MS. KEDIA: That's why I will have to show him
5 the map.

6 MR. BURETTA: It should be a proper map, not one
7 I have never seen before with other locations I have never
8 seen before.

9 THE COURT: This was used in the last
10 proceeding?

11 MS. KEDIA: Yes, your Honor.

12 MS. MAYER: I don't remember that. I don't have
13 a copy of the defense exhibits from the last trial, so I
14 don't know. I don't recall that being introduced in
15 evidence.

16 MS. KEDIA: It was something prepared by my
17 co-counsel at the last trial.

18 THE COURT: It was admitted?

19 MS. KEDIA: I don't know the answer to that.

20 THE COURT: Ask if he knows the location.

21 MS. KEDIA: I will show it to him, if he needs
22 to see it in relation and just to him, not the jury.

23 (Sidebar concluded.)

24 (Continued on the next page.)

25

Scanlan - Cross/Kedia

1714

1 (In open court.)

2 BY MS. KEDIA: (Cont'd)

3 Q Agent Scanlon, we just discussed the observation of
4 the vehicle with the license plate WPG72E going to 270
5 89th Street?

6 A Yes, ma'am.

7 Q This was Mr. Cutolo, Jr. driving the car that day?

8 A That's right.

9 Q This is five days after your search for William
10 Cutolo, Sr. on May 26, 1999, right?

11 A I think approximately that many days.

12 Q Now, 270 89th Street, how far is that from 92nd and
13 Shore Road?

14 A I don't recall geographically how many miles it is.

15 Q If I can show you --

16 THE COURT: Do you have a smaller exhibit?

17 MS. KEDIA: Yes, I do.

18 THE COURT: Thank you.

19 Q I show you what I'm marking as Defendant Persico AC.
20 Take a look at that.

21 How far is 270 89th Street from 92nd th and
22 Shore Road?

23 A Appears to be several blocks.

24 Q Approximately two and a half blocks, Agent?

25 A Approximately.

Scanlan - Cross/Kedia

1715

1 Q Two and a half blocks.

2 MS. KEDIA: Thank you. Nothing further.

3 MR. LaRUSSO: No questions, your Honor.

4 MR. BURETTA: No questions.

5 THE COURT: Thank you, sir. You can step down.

6 Next witness.

7 MR. BURETTA: May we have a sidebar?

8 THE COURT: Yes.

9 You folks can take your break.

10 (The jury leaves the courtroom.)

11 MR. BURETTA: The witness is with the security
12 Marshals here. We needed to take a break to get him into
13 the courtroom.

14 THE COURT: You can get him up here in the next
15 15 minutes?

16 MR. BURETTA: Yes.

17 (A recess was taken.)

18 THE COURT: Let's bring in the jury.

19 (The jury enters the courtroom.)

20 THE COURT: Please have a seat.

21 The government's next witness.

22 **MICHAEL DiLEONARDO,**

23 having been first duly sworn was

24 examined and testified as follows:

25 THE CLERK: Please state and spell your name for

DiLeonardo - Direct/Goldberg

1716

1 the record.

2 THE WITNESS: Michael DiLeonardo, D.I.L.E.O.N.A.R.D.O.

3 DIRECT EXAMINATION

4 BY MR. GOLDBERG:

5 Q Mr. DiLeonardo, have you ever been affiliated with
6 organized crime?

7 A Yes.

8 Q What crime family?

9 A Gambino.

10 Q Were you a made member of the Gambino crime family?

11 A Yes.

12 Q When you were made, did you make promises to the
13 Gambino organized crime family?

14 A Yes.

15 Q Did you make any promises about disclosing the
16 activities of the Gambino crime family?

17 A Yes.

18 Q What was that promise?

19 A The oath of silence, omerta.

20 Q For a period of time, did you keep that promise?

21 A Yes.

22 Q How long did you keep that promise?

23 A 14 years.

24 Q What happened at the end of 14 years?

25 A I cooperated.

DiLeonardo - Direct/Goldberg

1717

1 Q In the Gambino crime family, is there a penalty for
2 cooperating?

3 A Yes; death.

4 Q When you were in the mob, did you know someone named
5 Alphonse Persico?

6 A Yes.

7 Q Do you see him?

8 A Yes.

9 Q Can you tell us what he is wearing?

10 A The gentleman is wearing a burgundy V-neck-collared
11 shirt.

12 MR. GOLDBERG: Your Honor, identifying the
13 defendant, Alphonse Persico.

14 THE COURT: Yes.

15 Q How close were you with Alphonse Persico?

16 A Very close.

17 Q I'm showing you Government Exhibit 2-F. Do you
18 recognize that person?

19 A Bill Cutolo.

20 Q Did he have a nickname?

21 A Wild Bill.

22 Q Sir, directing your attention to May 1999, what
23 happened to William Cutolo in May of 1999?

24 A He was killed.

25 Q Did you talk with Alphonse Persico about Billy Cutolo

DiLeonardo - Direct/Goldberg

1718

1 in the years leading up to Billy Cutolo's murder?

2 A Yes.

3 Q Did you talk with Alphonse Persico after Billy
4 Cutolo's murder?

5 A Yes.

6 Q Sir, how old are you?

7 A 52.

8 Q Are you married?

9 A Yes.

10 Q What is your wife's name?

11 A Madelena.

12 Q Is this your first marriage?

13 A No.

14 Q How did your first marriage end?

15 A In divorce.

16 Q What was your ex-wife's name?

17 A Toni Marie.

18 Q When did you and Toni Marie marry?

19 A May of '85.

20 Q How old were you at that time?

21 A 30 years old.

22 Q When did you divorce?

23 A The official divorce, I believe, came in February of
24 2002.

25 Q Speak up a little bit.

DiLeonardo - Direct/Goldberg

1719

1 A February 2002.

2 Q In a sentence or two, why did you divorce?

3 A I had a child out of wedlock.

4 Q Is that with your current wife?

5 A Yes.

6 Q You were having an affair?

7 A Yes.

8 Q Do you and Toni Marie, your first wife, have any
9 children?

10 A Yes.

11 Q What is his name?

12 A Michael; he is 21.

13 Q Do you have any other children?

14 A Yes; Anthony, with Madelena, he is seven years old.

15 Q Where did you grow up?

16 A Bensonhurst, Brooklyn.

17 Q Any particular part of Bensonhurst?

18 A Bath Beach section, 17th Avenue, around there.

19 Q How long did you live in Brooklyn?

20 A Over 40 years.

21 Q Until what year?

22 A I believe it was April, March or April of '98, I
23 moved to Staten Island.

24 Q Did there come a time when you entered the witness
25 protection program?

DiLeonardo - Direct/Goldberg

1720

1 A Yes.

2 Q Are you still in the program?

3 A No.

4 Q How long were you in the program?

5 A Around two years.

6 Q Whose decision was it for you to leave the program?

7 A It was a mutual decision.

8 Q In a sentence or two, what happened?

9 A They wanted to move my family again under the extreme
10 circumstances, and my wife didn't want to move to the area
11 that they was looking to send us, so we mutually agreed to
12 disagree and I signed out.

13 Q You were tired of moving?

14 A Yes.

15 Q When you were in the witness protection program, were
16 you and your family given new identities?

17 A Yes.

18 Q Have you been permitted to keep those new identities?

19 A Yes.

20 Q Where did you live immediately before the witness
21 protection program?

22 A Prison.

23 Q How long were you in prison?

24 A Three years.

25 Q Sir, taking you back to your childhood, who did you

DiLeonardo - Direct/Goldberg

1721

1 live with growing up in Brooklyn?

2 A My parents, my brother Robert, my brother James and
3 next door, my grandparents.

4 Q What did your parents do for a living?

5 A My mother was a seamstress and my father was a horse
6 player, gambler.

7 Q You mentioned your brothers, what happened to your
8 brothers?

9 A My brother Jimmy lives in Alaska and my brother
10 Robert was murdered.

11 Q Do you remember the date your brother was murdered?

12 A 7/16/81.

13 Q Did you go to high school in Brooklyn?

14 A Yes.

15 Q Where?

16 A New Utrecht.

17 Q Did you graduate?

18 A Yes.

19 Q What year?

20 A '73.

21 Q Did you go to any college?

22 A Kingsborough Community College. I went about 18
23 months or so and I dropped out.

24 Q Did you at one time have a nickname?

25 A Yes.

DiLeonardo - Direct/Goldberg

1722

1 Q What was the nickname?

2 A Mikey Scars.

3 Q How did you get that nickname?

4 A I was bitten by a dog around ten years old.

5 Q Is that a nickname that you use?

6 A Never.

7 Q What do you prefer to be called?

8 A Michael.

9 Q You indicated that before you were in the witness
10 protection program, you were in prison. When were you
11 arrested on that charge?

12 A June 20th of '02.

13 Q Had you ever been arrested before that?

14 A Yes.

15 Q How many times?

16 A Twice.

17 Q Let's talk about your first arrest. How old were
18 you?

19 A It was in the late '70s , I believe. I was in my
20 early 20s, I would say.

21 Q What were you arrested for?

22 A Gambling, promoting gambling.

23 Q Were you guilty or innocent of those charges?

24 A I was guilty.

25 Q What happened with the charge?

DiLeonardo - Direct/Goldberg

1723

- 1 A I paid a \$50 fine and left.
- 2 Q Did you serve any jail time for that?
- 3 A I think it was overnight.
- 4 Q When was your next arrest?
- 5 A September 2000.
- 6 Q Where were you arrested?
- 7 A I turned myself in from New York to Atlanta, Georgia.
- 8 Q Is that a federal case or a state case?
- 9 A Federal.
- 10 Q What were the charges?
- 11 A Extortion, money laundering, racketeering.
- 12 Q You said extortion. Who were you accused of
- 13 extorting?
- 14 A Scores Nightclub, the Gold Club and Steve Kaplan, who
- 15 owned the Gold Club.
- 16 Q What is Scores Nightclub?
- 17 A They were adult clubs, strip clubs.
- 18 Q The Gold Club as well?
- 19 A Sure.
- 20 Q When you were arrested on those charges, were you
- 21 released on bail?
- 22 A Yes.
- 23 Q Were there any restrictions?
- 24 A Yes, I had to wear a bracelet and be home not after
- 25 11:00 at night, and I couldn't leave my house until 7 in

DiLeonardo - Direct/Goldberg

1724

1 the morning and I couldn't meet with felons.

2 Q You couldn't meet with felons?

3 A Felons.

4 Q Other members of organized crime?

5 A Yes.

6 Q Despite these restrictions, did you continue to meet
7 with people?

8 A Yes.

9 Q People you were prohibited from meeting?

10 A Correct.

11 Q How did you do that?

12 A I would make appointments through emissaries and meet
13 them in certain places, or certain people I met right out
14 in the open.

15 Q Despite these restrictions, did you commit further
16 crimes?

17 A Yes.

18 Q When you say emissary, what did you mean by that?

19 A I had friends of mine I could see go tell people I
20 couldn't see to make appointments to, say, in a restaurant
21 or public place in case the FBI was outside, I would have
22 some kind of excuse.

23 Q They would pass messages for you?

24 A Yeah.

25 Q In that case, in Atlanta, the federal case, did you

DiLeonardo - Direct/Goldberg

1725

1 plead guilty or did you go to trial?

2 A I went to trial.

3 Q Was that a jury trial or a bench trial with the
4 judge?

5 A Jury.

6 Q Was there a verdict?

7 A Yes.

8 Q What was the verdict?

9 A I got acquitted.

10 Q Despite the acquittal, were you in fact guilty of
11 those crimes?

12 A Yes.

13 Q Sir, would it be fair to say that prior to your
14 arrest and incarceration in June of 2002, you spent most
15 of your adult life committing crimes?

16 A That's correct.

17 Q In fact, part of your childhood as well, right?

18 A Since around 12 years old.

19 Q What kind of crimes did you commit when you were 12
20 years old?

21 A We used to shoplift, vandalizations, gang fights,
22 assaults, things of that nature.

23 Q Is it fair to say that as you got older, your crimes
24 became more serious?

25 A Yes.

DiLeonardo - Direct/Goldberg

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1 Q What kinds of crimes?

2 A Extortions. Stock fraud. Conspiracy to murder.
3 Murder. More assaults. Tax evasion. Just about
4 everything except for drug dealing.

5 Q Do you know what shylocking is?

6 A Shylock.

7 Q Did you do that?

8 A Shylocking. Bookmaking.

9 Q You mentioned murder. How many murders were you
10 involved in?

11 A Three.

12 Q Who were the victims?

13 A Fred Weiss, Frank Hydel and a fellow named Jack, I
14 never learned his last name.

15 Q Were they all killed in the same way?

16 A Shot dead.

17 Q Were you ever the shooter?

18 A No.

19 Q Did you witness any of the shootings?

20 A No.

21 Q Despite the fact that you were not a shooter and did
22 not witness those shootings, in your mind were you still
23 guilty of murder?

24 A Yes, I was part of a conspiracy.

25 Q Regarding the murder of Fred Weiss, who actually

DiLeonardo - Direct/Goldberg

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1 carried out that murder?

2 A The Cavalcante family, members of them.

3 Q Where is that family?

4 A Based in New Jersey.

5 Q Do you have an understanding of why Fred Weiss was
6 killed?

7 A He was thought to be cooperating.

8 Q Who gave the order to kill Fred Weiss because he was
9 cooperating?

10 A John Gotti, Sr.

11 Q Who was John Gotti, Sr. at the time of the Fred Weiss
12 murder?

13 A He was the boss of the Gambino family.

14 Q In addition to the crimes that you have described,
15 have you ever used illegal drugs?

16 A When I was about 14 or 15, I smoked pot about a dozen
17 times.

18 Q Ever do anything more serious than pot?

19 A No.

20 Q Is the Gambino family part of a larger criminal
21 organization?

22 A Yes; La Cosa Nostra.

23 Q What is La Cosa Nostra?

24 A This thing of ours, our thing, this thing of ours.
25 It's a brotherhood.

DiLeonardo - Direct/Goldberg

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1 Q Are other crime families besides the Gambino crime
2 family in La Cosa Nostra?

3 A Yes, throughout the country.

4 Q Are there any in New York City?

5 A Yes.

6 Q Which ones?

7 A There is the Colombo family, Lucchese family,
8 Genovese family, Bonanno family and the Cavalcante family.

9 Q The Cavalcante family, is there any relationship
10 between that family and the Gambino family?

11 A Yes, they used to come in to John, which was the
12 Gambino family, John Gotti, Sr.

13 Q At the time of your arrest, in June of 2002, how long
14 had you been affiliated with the Gambino family in any
15 capacity?

16 A My whole life, I was born into it.

17 Q Were you an associate?

18 A Yes.

19 Q What was your next position?

20 A After associate, I was a soldier.

21 Q Did you hold a higher position than that?

22 A Captain.

23 Q When did you become a captain?

24 A '92 and '93 officially.

25 Q As of June 2002, what rank did you hold?

DiLeonardo - Direct/Goldberg

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1 A I was a captain.

2 Q As a captain in the Gambino crime family, did you
3 have any particular role with respect to the Colombo crime
4 family?

5 A Yes, I became the liaison or contact man with the
6 Colombo family.

7 Q In that role as a liaison or contact man with the
8 Colombo family, did you meet with high-ranking members of
9 the Colombo family?

10 A Yes.

11 Q Generally speaking, what types of issues would you
12 talk with them about?

13 A Construction. Stocks. Stock market. Politics of
14 the families. Straighen out guys for lists, to
15 straighen out lists inductees, possibly. And
16 cooperators.

17 Q Did you ever talk about disputes?

18 A Yes.

19 MR. GOLDBERG: Your Honor, I think 2-B is in
20 evidence. To make sure, I will show it to the witness, if
21 I may approach.

22 THE COURT: Yes.

23 Q I'm showing you 2-B, do you recognize this person?

24 A Yes.

25 Q Who is that?

DiLeonardo - Direct/Goldberg

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1 A Allie, Allie Persico.

2 MR. GOLDBERG: We offer 2-B.

3 MS. KEDIA: No objection.

4 MR. LaRUSSO: No objection.

5 THE COURT: Received in evidence if it wasn't
6 already.

7 (Government Exhibit 2-B received in evidence.)

8 Q As part of your role as the Gambino liaison to the
9 Colombo family, did you have occasion to meet with Allie
10 Persico?

11 A Yes.

12 Q How many times did you meet with Allie Persico over
13 the years?

14 A I would say dozens.

15 Q Generally speaking, what topics would you and
16 Alphonse Persico, Allie Persico, talk about during those
17 dozens of meetings?

18 A Construction. Transferring guys back and forth. La
19 Cosa Nostra politics. Cooperator at one time. Just about
20 everything.

21 Q Can you give us an idea of what time period you were
22 meeting with Alphonse Persico?

23 A From the mid '90s to maybe 2000.

24 Q During that period of time, what rank did Alphonse
25 Persico hold in the Colombo crime family?

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1 A He was acting boss.

2 Q Who was the official boss?

3 A His father, Carmine.

4 Q I show you 2-A. Who is that?

5 A That's Carmine.

6 Q What relationship, if any, does Alphonse Persico have
7 to Carmine Persico?

8 A Father and son.

9 Q Who is the father?

10 A Carmine.

11 Q Where was Carmine Persico during this time period
12 when you were meeting with Alphonse Persico?

13 A He was incarcerated.

14 Q During this time period, the mid '90s to the late
15 '90s, I think you said maybe 2000, who was running the
16 Colombo family?

17 A Allie.

18 Q During the mid '90s and onward, did you have an
19 occasion to meet someone named Jackie DeRoss?

20 A Yes.

21 Q How many times did you meet with Jackie DeRoss?

22 A Like I said, dozens.

23 Q Do you see him in the courtroom?

24 A Yes.

25 Q Can you point him out?

DiLeonardo - Direct/Goldberg

1732

1 A Yes, he is the gentleman with the tan sweater, second
2 to the left.

3 MR. GOLDBERG: Your Honor, indicating the
4 defendant John DeRoss.

5 THE COURT: Yes.

6 Q Generally speaking, what topics would you and Jackie
7 DeRoss talk about when you met?

8 A Construction. Politics. Some beefs. Transferring
9 guys.

10 Q When you first started meeting with Jackie DeRoss,
11 what rank did he hold?

12 A He was a captain.

13 Q Did he later have a different rank?

14 A Yes, he became the underboss.

15 Q I'm showing you 2-G. Jackie DeRoss?

16 A Correct.

17 Q How about William Cutolo, Wild Bill, did you meet
18 with him over the years?

19 A Yes.

20 Q How many times?

21 A Dozens also.

22 Q During what decades did you meet with Wild Bill?

23 A I would say from the late '70s all the way up to '99.

24 Q Did you discuss the same types of topics with Billy
25 Cutolo as you did with Alphonse Persico and Jackie DeRoss?

DiLeonardo - Direct/Goldberg

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1 A Yes.

2 Q What was Billy Cutolo's rank in the Colombo family
3 from the time period that you knew him?

4 A He went from a soldier to captain to underboss.

5 Q You testified that he was killed in May of 1999.
6 What was his rank at the time he was killed?

7 A He was the underboss.

8 Q Turning the La Cosa Nostra, how far back do you trace
9 your roots?

10 A Over 100 years.

11 Q Can you explain?

12 A My grandfather was one of the first guys to come here
13 and start; it was the Black Hand at that time. Then later
14 on it was called La Cosa Nostra in this country.

15 Q What was your grandfather's name?

16 A Jimmy.

17 Q You said earlier that he lived by you when you grew
18 up?

19 A Right next door.

20 Q What was the Black Hand?

21 A La Mano Nera. It was a sign they used to put on
22 doors for extortion.

23 Q Was your grandfather a made man?

24 A Yes.

25 Q Did you come to know your grandfather's friends when

DiLeonardo - Direct/Goldberg

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1 you were growing up?

2 A Yes.

3 Q Were any of them made men?

4 A Oh, yeah.

5 Q When you were a child, did you have an encounter with
6 someone named Joe Colombo?

7 A Yes.

8 Q Can you explain?

9 A Yes. I was about ten years old and --

10 MS. KEDIA: Judge, I object.

11 MR. GOLDBERG: Background. I'm happy to
12 approach.

13 THE COURT: Yes. Come on up.

14 (Continued on the next page.)

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Sidebar

1735

1 (Sidebar.)

2 MR. GOLDBERG: Judge, it's just one question and
3 it goes to establishing how he later forms a very close
4 relationship with the Colombo family.

5 THE COURT: Because he met Joey when he was ten?

6 MR. GOLDBERG: Later on this witness will
7 testify about how he had the Colombo family ear. And his
8 relationship with the Colombo family is a very special
9 relationship that dates back a long time. It's just one
10 question, Judge.

11 MS. KEDIA: Is there any relation between Joe
12 Colombo and his --

13 MR. GOLDBERG: He will testify --

14 MS. KEDIA: -- the relationship with these
15 defendants?

16 MR. GOLDBERG: These defendants were in the
17 Colombo crime family.

18 MS. KEDIA: Not when the witness was ten.
19 Certainly Mr. Persico was ten years old at the time. I
20 don't understand how his relationship with Joe Colombo is
21 relevant.

22 MR. GOLDBERG: It's how did he know him and --

23 THE COURT: It's two questions.

24 MR. LaRUSSO: One other matter. He testified
25 that Bill Cutolo was killed. First of all, he has no

Sidebar

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1 evidence at all relative to whether or not Mr. Cutolo was
2 killed or not. I didn't object because I was trying not
3 to interfere. If that's going to continue, I'm going to
4 ask that part of his testimony be stricken. I think it's
5 appropriate to say disappeared.

6 THE COURT: There may be a different basis as to
7 why he believes Cutolo was killed. I assume he is going
8 to testify Alphonse Persico told him.

9 MS. KEDIA: Your Honor --

10 MR. GOLDBERG: This witness had conversations
11 with these defendants in which the message to him was
12 clear, and he will testify about this later that Billy
13 Cutolo didn't disappear and he was killed. That's his
14 understanding. They can cross. They can point out that
15 maybe they used the word missing or disappeared, but he
16 will testify he knows, based on his lifelong crimes, he
17 was murdered. They can cross him on it. I can refer to
18 that time period as May 1999. I won't repeat the phrase
19 he was killed, he was killed.

20 MS. KEDIA: Your Honor, this witness has
21 testified, and presumably will testify again, he had a
22 meeting with Mr. DeRoss and Mr. Persico about a week after
23 Mr. Cutolo's disappearance, at which Mr. DeRoss states he
24 was missing. Haven't you heard Billy is missing. So the
25 idea now he is testifying he was killed. That's certainly

Sidebar

1737

1 an ultimate fact for the jury to determine.

2 MR. LaRUSSO: That's the point.

3 THE COURT: I don't know what it is, every time
4 we come up here, we go off in 20 different directions.

5 I'm going to permit the question. We will proceed. Okay.

6 MS. KEDIA: With respect to he was killed, can
7 that be stricken?

8 THE COURT: I will not strike it at this time.
9 You want me to strike it at this time?

10 MS. KEDIA: Yes, Judge.

11 THE COURT: They didn't object. I will allow
12 you to develop it.

13 (Sidebar concluded.)

14 (Continued on the next page.)

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DiLeonardo - Direct/Goldberg

1738

1 (In open court.)

2 THE COURT: The objection is overruled.

3 BY MR. GOLDBERG: (Cont'd)

4 Q In a sentence or two, how did you come to meet Joe
5 Colombo?

6 A My father had a card game upstairs from where I used
7 to live. They used to go up there and play, and Joe
8 Colombo was coming to play the night I got bitten in the
9 face by the dog and was bleeding profusely, and I had a
10 rag there, Joe took out a handkerchief and put it to my
11 face.

12 Q Who was Joe Colombo at that time?

13 A He was the boss of the family.

14 Q Sorry?

15 A He was the boss of the Colombo family.

16 Q Who was the boss of the Gambino family at that time?

17 A Carl Gambino.

18 Q Did you ever meet him growing up?

19 A Carl? Yeah.

20 Q Did there come a time when there was a new boss in
21 the Gambino family?

22 A Yes.

23 Q When that was?

24 A Fall of '76.

25 Q What happened to Carl Gambino?

DiLeonardo - Direct/Goldberg

1739

1 A He died of natural causes.

2 Q Who was the new boss?

3 A Paul Castellano.

4 Q When did you become an associate in the Gambino crime
5 family?

6 A I would say I was officially put on record somewhere
7 in the mid '70s.

8 Q Can you explain to the jury what it means to be put
9 on record?

10 A A soldier, a made member would then take your name
11 and bring it to the captain of the family of that crew,
12 and you would be officially put on record, and then the
13 captain usually would send it up to administration of the
14 family, the bosses.

15 Q Was there a particular soldier in the Gambino crime
16 family that you were put on record with?

17 A Yes, Paul Zacharia, Paulie Zach.

18 Q Did being put on record change the way in which you
19 were able to make money?

20 A Yes, I had the protection from the family now. I
21 could open up my own social club, permission to shylock,
22 bookmake and things like that.

23 Q Did you have any new obligations?

24 A Yes, to kick up my proceeds that I had earned.

25 Q What did you get in return for kicking up proceeds?

DiLeonardo - Direct/Goldberg

1740

1 A Well, it was part of my upward mobility to try and
2 get straightened out in the family, become a made man and
3 you got protection from the family.

4 Q You wanted to become a made man?

5 A Absolutely.

6 Q During this time period, how did you kick up your
7 profits, in what manner?

8 A I would give whatever I won from gambling with my
9 bookmaking and my card games that I had in the clubs, I
10 would give an end to Paulie Zach, plus he had given me
11 \$10,000 so I could shylock out in street, which I paid him
12 \$100 a week, which was one point a week.

13 Q Who was Leo Garafolo?

14 A He was Paul's skipper, his captain, and Paul directed
15 me, he said it's a good idea you will see the old man and
16 give him \$100 a week.

17 Q When Paulie Zach said it would be a good idea to pay
18 money to the captain, what did you understand this to
19 mean?

20 A A new way the machine worked about earning money, he
21 was an old man, wasn't earning that much. If I gave him
22 some money, I would ingratiate myself with him.

23 Q You indicated you were able to open up a social club.
24 Did you, in fact, open up a social club?

25 A Yes.

DiLeonardo - Direct/Goldberg

1741

1 Q When?

2 A I would say '79 might have been my first one, on Bay
3 7th Avenue and 86th Street.

4 Q Where is that?

5 A Bensonhurst.

6 Q What is a social club?

7 A Well, it has like a little headquarters we used to
8 play cards. I had guys that were friendly with me, close
9 to me, come to the club, and everybody who wanted to
10 borrow shylock money or make a bet or anything else, they
11 would come and see me there.

12 Q What was it about having a social club that allowed
13 you to make more money?

14 A Well, I had a base now. It wasn't just running
15 around the street meeting people. I was able to have a
16 base.

17 Q Did you open just one club or more than one club?

18 A I had one more.

19 Q Sir, I would like to direct your attention to July
20 16, 1981. Do you remember that day?

21 A Sure.

22 Q What happened that day?

23 A My brother was murdered.

24 Q Which brother?

25 A My brother Robert.

DiLeonardo - Direct/Goldberg

1742

1 Q At that point in time, was he involved in crime?

2 A Yes.

3 Q What kinds of crimes?

4 A He was robbing banks and dealing drugs, shylocking
5 and whatever else he was instructed to do.

6 Q Did he have an affiliation with an organized crime
7 family?

8 A Yes, he was with the Colombo family and a soldier
9 named Greg Scarpa.

10 Q Greg Scarpa, Sr.?

11 A Senior.

12 Q How did he die?

13 A He was murdered, shot.

14 Q Do you know who killed him?

15 A I later on found out it was Carmine Sessa, Greg
16 Scarpa, Jr. and Kevin Granado.

17 Q Did you have an understanding as to why he was
18 killed?

19 A Yes, they said that he was dealing drugs and they
20 were cleaning their house so they killed him for that. It
21 was an excuse.

22 Q What do you mean by their house?

23 A The Colombo family, supposedly there was an edict
24 against dealing drugs, and my brother was the guy they
25 used to kill.

DiLeonardo - Direct/Goldberg

1743

1 Q How old were you when your brother was killed?

2 A 26.

3 Q After your brother was killed, did you have an
4 occasion to speak with anyone from the Colombo family
5 about his death?

6 A Yes, Michael Persico.

7 Q Who is Michael Persico?

8 A He is Allie's brother.

9 Q How long had you known Michael Persico?

10 A Since about 12 years old, 13 years old.

11 Q How soon after your brother's murder did you speak
12 with Michael Persico?

13 A He came by the club, had to be within a week or two
14 after my brother was buried.

15 Q What did he say?

16 A Michael liked my brother very much and my brother
17 liked him very much. They used to hang out at the same
18 bar together, and he felt very bad, expressed his
19 condolences and said if I could have stopped it, if I
20 would have known about it, it wouldn't have happened.

21 Q Was Michael Persico involved in criminal activity
22 himself?

23 A He was just a shylock, that's it, as far as I knew.

24 Q I'm showing you 2-II, do you know who that is?

25 A That's Frank Persico.

DiLeonardo - Direct/Goldberg

1744

1 Q Do you know if Frank Persico has an affiliation with
2 organized crime?

3 A Yes, he was an associate.

4 Q What crime family?

5 A Colombo.

6 Q What kinds of crimes has Frank Persico committed?

7 A Later on when I got to meet him in life, I didn't
8 know him early, he was in the stock market, he was
9 pump-and-dump schemes.

10 Q What's a pump-and-dump scheme?

11 A Push out some stocks through cold callers and brokers
12 to where a stock goes to a certain level, and then the
13 inside guys sell out from under and the stock drops and
14 they take the profit.

15 Q You were involved in that as well, right?

16 A Absolutely.

17 Q What relationship, if any, does Frank Persico have to
18 Michael Persico and Alphonse Persico?

19 A They were cousins.

20 Q Sir, I would like to direct your attention to four
21 years after your brother was killed, December 1985. What
22 happened in December of 1985?

23 A Paul Castellano and Tommy Bilatti, boss and underboss
24 respectively, were murdered in Manhattan.

25 Q Where in Manhattan?

DiLeonardo - Direct/Goldberg

1745

- 1 A Mid-Manhattan by Spark's Steakhouse.
- 2 Q Inside Spark's Steakhouse or out in the street?
- 3 A Out in the street.
- 4 Q What time of day?
- 5 A I believe it was around dinnertime.
- 6 Q Who was responsible for the murder of Paul
- 7 Castellano, the boss, and Tommy Bilatti, the underboss?
- 8 A John Gotti, Sr. and Frank DeCicco.
- 9 Q Were other people involved?
- 10 A Yes, it was a team.
- 11 Q When you said John Gotti, John Gotti, Sr.?
- 12 A Correct.
- 13 Q What was John Gotti, Sr.'s rank at the time he and
- 14 others killed the boss Paul Castellano and the underboss
- 15 Tommy Bilatti?
- 16 A John and Frank DeCicco were captains.
- 17 Q Were those murders approved by anyone above John
- 18 Gotti, Sr.?
- 19 A No, the commission did not approve the boss' killing,
- 20 they took it upon themselves to lodge a coup.
- 21 Q Who became the boss of the Gambino crime family after
- 22 Paul Castellano and Tommy Bilatti were killed?
- 23 A John Gotti, Sr.
- 24 Q Who did John Gotti, Sr. make his underboss?
- 25 A Frank DeCicco.

DiLeonardo - Direct/Goldberg

1746

1 Q What relationship, if any, did you have to Frank
2 DeCicco?

3 A I knew him my whole life and I married his cousin.

4 Q Was that your first wife or second wife?

5 A First.

6 Q Toni Marie?

7 A Correct.

8 Q You indicated that was December of 1985. Let me
9 direct your attention to April of 1986.

10 Did something happen to Frank DeCicco in April
11 of 1986?

12 A Yes, April 13th of '86, Sunday afternoon, Frankie
13 went to his car and the car was exploded, was blown up.

14 Q This was how long after the killings of Paul
15 Castellano and Tommy Bilatti?

16 A Four months.

17 Q Where were you when Frank DeCicco was blown up in a
18 car?

19 A In the club across the street, with about 50, 60
20 other people.

21 Q Can you describe for the jury what happened?

22 A Frankie went outside with another fellow to get a
23 business card out of his glove compartment. He sat down
24 in the passenger seat, and then there was a huge explosion
25 and I ran outside and the car was in flames, it was like

DiLeonardo - Direct/Goldberg

1747

1 shredded.

2 Q Can you describe the scene?

3 A Yes; it was mayhem, panic. Matter of fact, a lot of
4 guys stood back on the sidewalk across the street and
5 about four of us ran over to assist Frankie and this other
6 fellow. The other fellow lived.

7 Q What was your rank at the time?

8 A I was an associate.

9 Q What was the reaction of the Gambino crime family to
10 the killing of John Gotti Sr.'s underboss Frank DeCicco?

11 A Frank DeCicco was one of the most loved guys in that
12 life, and there was a lot of anger within our family and a
13 lot of panic. Also, we figured we had a war on our hands,
14 so it was twofold.

15 Q What, if anything, did the Gambino crime family do to
16 try to find out who had killed the underboss Frank
17 DeCicco?

18 A We started calling all the captains, investigating
19 the captains to see if they had anything to do with it,
20 because Paul was killed and they wanted to see if there
21 was allegiance to Paul. Sit down and look in their eyes
22 and sit down and find out who did this to Frank, and they
23 did that with other families, put out some inquiries.

24 Q What do you mean by putting out inquiries?

25 A To find out what happened with Frankie, like I said,

DiLeonardo - Direct/Goldberg

1748

1 trying to do some kind of investigation, not with the
2 police, within the Cosa Nostra.

3 Q Were there inquiries made to only some families or
4 all families?

5 A All the families.

6 Q Who was spearheading this investigation?

7 A Gravano and Gotti, Sr.

8 Q During the time of this investigation, did you and
9 other people within the Gambino crime family take any
10 precautions?

11 A A lot of the guys started carrying guns. They
12 thought maybe it was a war and they didn't know who was
13 next.

14 Q Under the rules of La Cosa Nostra, what would have
15 happened at that time to Frank DeCicco's skippers had they
16 been identified?

17 A They would have been executed.

18 Q Did the Gambino family eventually learn why Frank
19 DeCicco was killed?

20 A Yes.

21 Q Why was he killed?

22 A They killed the boss, Frank and Johnny and others
23 without permission from the commission, the ruling party
24 of the families in New York.

25 Q Was the killing of Frank DeCicco, the underboss,

DiLeonardo - Direct/Goldberg

1749

1 approved by anyone higher than John Gotti, Sr., the boss
2 of the Gambino crime family at the time?

3 A It wasn't higher. John was on the commission also.
4 It was Genovese family, Lucchese family got together and
5 took -- seeked (sic) revenge on John and Frankie and
6 others.

7 Q You said the commission. Can you explain the
8 commission?

9 A In New York, I think there were five seats on the
10 commission at the time. There was only four that could
11 vote. The Bonannos was on probation, they couldn't vote.
12 And the boss of each family would decide on politics and
13 procedures.

14 Q So at the time Frank DeCicco was killed, you
15 indicated there were four families that had a seat on the
16 commission?

17 A Right.

18 Q Including the Gambino family?

19 A Right.

20 Q Two of the three other families voted in favor of
21 killing Frank DeCicco?

22 A Right.

23 Q When the Gambino crime family came to learn who was
24 responsible for the killing of Frank DeCicco, was there
25 any revenge taken against those two crime families?

DiLeonardo - Direct/Goldberg

1750

1 A We found out some years later and nothing was done.

2 Q Why not?

3 A The Gottis didn't take the initiative to go do it.

4 Q Sir, did there come a time when your status changed
5 from associate to something else?

6 A Yes, I became -- inducted, a member.

7 Q Is that a proud day in your life?

8 A It was then.

9 Q Do you remember that day?

10 A Yes.

11 Q What day was it?

12 A 24th of December, '88.

13 Q How old were you?

14 A 33.

15 Q Can you explain to the jury what happened that day?

16 A Yes. My captain, Jack D'Amico, I knew it was going
17 to be that day. He told me: I will tell you, put a suit
18 on, that's the day, show up on Mulberry Street. So I met
19 him on Mulberry Street and we walked out to a club, a
20 building, Captain Joe Carrao owned, and we walked into the
21 building and in the building we met a fellow named Bobby
22 Lorieello, a soldier at the time, he directed Jackie to go
23 to one room and he took me to another room.

24 When I walked in the room, I find Thomas
25 Carbanaro, Huck, and there was some other fellows in

DiLeonardo - Direct/Goldberg

1751

1 there, four other fellows, John Gotti, Jr., Skinny Dom
2 Pizzonia, Nicky LaSorsa, the other fellow, I don't
3 remember his name. We were waiting to get straightened
4 out.

5 At this point, there was a knock on the door.
6 John Jr. goes in the room first. They call him in alone.
7 Another knock, Dom Pizzonia goes in again. Third knock,
8 Jackie knocks on the door and comes and gets me and I go
9 in the room.

10 Q You said Jackie, Jackie D'Amico?

11 A Yeah.

12 Q Keep going.

13 A I walk in the room, and there's a rectangular table
14 about 10 or 12 skippers, captains, sitting around the
15 table. The one to my right is Junior and Skinny Dom.
16 They had just gotten straightened out. At the head of the
17 table was Frank LoCascio, Sammy Gravano and a couple of
18 empty chairs. That's where I went to sit down.

19 Q You mentioned Junior?

20 A John Jr., Gotti.

21 Q He was made the same day you were?

22 A Yes. I was instructed to sit down. Gravano led the
23 ceremony. He says: Do you know why you are here? I
24 said: No. He says: Do you know these men? I said:
25 Yes. He says: Do you respect these men? I says: Yes.

DiLeonardo - Direct/Goldberg

1752

1 He says: We have been watching you for a long time. This
2 is not a club. This is a secret society. He says: Do
3 you want to be a part of us? So I said: Yeah.

4 He says: There is one way in this society, the
5 way you are coming in today and one way out, on a slab.
6 So he says: Which finger do you shoot with? I put up my
7 index finger. Jackie had a pin, pinched my fingers, draw
8 blood. There was a picture of a saint crumbled up. I was
9 told to cup my hands. They lit the saint and he told me
10 to repeat some words, if I betray the oath of omerta, may
11 my soul burn in hell like this saint.

12 They drop the ashes and the congregation -- he
13 said: Jackie is your new father and you are born again
14 today. And I went around and kissed all the skippers,
15 congratulations. Came back to the head of the table,
16 where we locked in, everybody stood up, held hands around
17 the table and words in Italian were spoken to the effect
18 whatever goes on in this room today stays in this room.

19 Q You mentioned Jackie being introduced as your new
20 father. Who is Jackie?

21 A Jack D'Amico.

22 Q What was your understanding of new father?

23 A Well, when you join the mob, your family doesn't come
24 first, your brothers, the people you are in that room with
25 and everybody else in Cosa Nostra are your family,

DiLeonardo - Direct/Goldberg

1753

1 supposed to come first before anybody, so father being
2 Jackie was my captain and my sponsor, hence father.

3 Q You indicated that you were told that there was only
4 one way in and one way out, and the way out being on a
5 slab. What did you understand that to mean?

6 A Dead.

7 Q You were told that if you disclosed things about the
8 family, your soul would burn in hell. Do you remember
9 being told that?

10 A Correct.

11 Q Are you doing that right now, are you disclosing
12 things?

13 A Correct.

14 Q You were asked if you knew why you were there that
15 day and you said no, you didn't. Did you know?

16 A Absolutely.

17 Q Did anyone force you to go there that day and be
18 made?

19 A No.

20 Q Did there come a time after your ceremony when
21 certain rules were explained to you?

22 A Yes.

23 Q When was that?

24 A Immediately after everybody got straightened out, the
25 other two fellows came in, same ceremony, we all sat down

DiLeonardo - Direct/Goldberg

1754

1 and then all the captains took a shot, threw a question,
2 of all the don'ts, not to do in the mob.

3 Q What do you mean by "the don'ts"?

4 A Don't deal drugs, you will be killed. Don't go with
5 another member's wife, you will be killed. Don't kill
6 without permission, you will be killed. Don't rob from
7 the family, you will be killed. A whole list of them.

8 Q Did they say anything about putting your hands on
9 another made guy?

10 A Yes; you can be killed for that.

11 Q When they were going through these rules, did they
12 say there was any requirement as to how many people were
13 necessary to participate in a mob hit?

14 A We didn't discuss mob hit protocols or procedures.

15 Q During your life of organized crime, did you come to
16 learn there is a minimum requirement of the number of
17 people who participate in a mob hit?

18 A No.

19 Q Is there any requirement in organized crime that a
20 mob hit be carried out in any particular way?

21 A No.

22 Q How were the different ways that victims are left
23 after they are killed?

24 A It depends if they want to send a message, whoever is
25 doing the killing, whoever ordered it, from an

DiLeonardo - Direct/Goldberg

1755

1 indiscretion, whatever the guy did. Sometimes they kill
2 you with honor and shoot you in the back of the head and
3 leave your body to be found by the family. Other times,
4 sent a message. If you are a cooperator, some people put
5 canaries in your mouth. If you robbed, sometimes they
6 will chop off your hands or showing pure brutality, they
7 chop you up. Other times you can just disappear, body not
8 be found.

9 Q Why would they make someone disappear so that the
10 body is not found?

11 A Well, it's hard to prove a case, law enforcement, if
12 there is no body. That was the thinking on the street; if
13 there is no body, there is nothing to charge. Other
14 reason, it would send a ripple through the family, we can
15 just make you disappear.

16 Q These various rules that were explained to you
17 shortly after your induction ceremony, are any of them
18 broken?

19 A All the time.

20 Q What about the rule against killing a made man, is
21 that broken all the time?

22 A Not all the time. It's done though.

23 Q What about the rule against killing an underboss
24 without permission, is that broken all the time?

25 MS. KEDIA: Objection to all the time.

DiLeonardo - Direct/Goldberg

1756

1 THE COURT: Sustained.

2 Q Are you aware of any occasion when an underboss was
3 killed without higher permission?

4 A Frankie DeCicco came from the commission sanctioned,
5 it would have to be sanctioned by the boss. Nobody can
6 kill the underboss without having your exposing yourself
7 to get killed yourself.

8 Q During your life of organized crime, were you
9 permitted to talk to law enforcement?

10 A Talk is like disclose secrets?

11 Q Did you lie for law enforcement over the years?

12 A Absolutely.

13 Q What about potential witnesses against the Gambino
14 crime family, what efforts, if any, would the Gambino
15 crime family take to prevent witnesses testifying against
16 the Gambino crime family?

17 A They would be killed ultimately.

18 Q Were there any steps taken short of being killed, not
19 talking about cooperating witnesses, just any witnesses?

20 A Yes, sometimes they would have somebody, if they can
21 talk to them, depends egregious.

22 Q What do you mean, talk to them?

23 A Tell them what you are doing and try to appease them,
24 I have done it.

25 Q Do members of the mob ever employ private

DiLeonardo - Direct/Goldberg

1757

1 investigators?

2 A Yes.

3 Q For what purpose?

4 A Basically, usually it's about cases trying to find
5 out about witnesses, some bad acts that witnesses may have
6 done and doing a background check, even though they are
7 your brothers, you know them a long time, dig up dirt
8 about people, or sometimes try to find out maybe what they
9 are up to without anybody knowing.

10 Q What was your rank upon induction into the Gambino
11 crime family?

12 A I was an associate, then I became a soldier.

13 Q You said you were assigned to Jackie DiMico as your
14 captain or skipper?

15 A Correct.

16 Q Did Jackie DiMico have a crew?

17 A Yes.

18 Q Who were some of the people in that crew?

19 A Paul Zacharia, Jerry L'Aquila, Nicky Martino, Philly
20 Mealy, Lou Celica, a few more.

21 Q You testified earlier you became a captain in 1992 or
22 '93.

23 A Correct.

24 Q Who was the boss of the Gambino crime family at that
25 time?

DiLeonardo - Direct/Goldberg

1758

1 A John Gotti, Sr.

2 Q Where was he at that time?

3 A He was down by the Ravenite the night I got
4 straightened out.

5 Q The time you became captain in '92, '93 --

6 A He was incarcerated.

7 Q Was he still the boss?

8 A Sure.

9 Q Who was running the family on a day-to-day basis on
10 the street?

11 A There was a five-man committee appointed by John --
12 at the time, Sammy Gravano with his son John Jr. being the
13 ultimate say behind the scenes.

14 Q To your knowledge, was John Gotti, Sr. still
15 ultimately controlling the family from jail?

16 A To some extent, yeah.

17 Q How would he do that if he was in jail?

18 A Through visits, at the time when he was at MCC, he
19 got some visits and he could run the family from there.
20 When he was shipped out to Marion, it was through
21 attorneys and through his son a little bit, through a code
22 they had.

23 Q Were you ever offered a higher position than captain?

24 A Yes.

25 Q When?

DiLeonardo - Direct/Goldberg

1759

1 A When Junior started to take over the family, Lou
2 Valerio was on the initial committee, he was coming down
3 because Gravano flipped, and being Louie was so close to
4 Sammy, that was his crew, they were taking Louie down from
5 the committee and Junior asked me to be on the committee,
6 which I declined.

7 Q Why did you decline?

8 A I felt it wasn't the right time, put older guys up
9 front, take some heat off us. There was another time when
10 Jimmy Fiella (ph) got pinched, and he was another one on
11 the committee, and John pushed me to do it again and I
12 refused.

13 Q When you were considering this offer to be part of
14 the ruling committee, were you concerned about law
15 enforcement scrutiny?

16 A Yeah, I thought John and I were too young at that
17 time, that the older guys were up front, let them stay up
18 front and we will sit in the background and run the
19 family. John asked me to help him run the family.

20 Q You were close with John Gotti, Jr.?

21 A He was my goombata. I baptized his son.

22 Q What does that mean, goombata?

23 A I baptized his son.

24 Q Turning to your daily life as a member of the Gambino
25 crime family, how did you make money, what kind of crimes?

DiLeonardo - Direct/Goldberg

1760

1 A From shylocking, bookmaking, stock fraud,
2 construction extortion, restaurant extortion.

3 Q Did you ever extort unions?

4 A Unions. Unions were with us, so it was easy.

5 Q What do you mean "us," "with us"?

6 A The Gambino family and other families had different
7 locals of unions throughout the city. And we controlled
8 some of those locals.

9 Q How did the Gambino organized crime family make money
10 through controlling unions, what does that mean?

11 A In other words, we would have the membership on a
12 construction job slow the job down, stop the job to exert
13 pressure on the ownership or the construction contractor
14 to get our way, get some money out of them or be in
15 conjunction with them. Most of the lead guys were off the
16 job, pretty good agreement with the general contractor and
17 the union and split the proceeds.

18 Q Do you know what a no-show job is?

19 A Sure.

20 Q What is that?

21 A That's when somebody is appointed and put on the job
22 and they don't have to go to work, no-show but get a
23 check.

24 Q Did you ever hear the phrase labor peace?

25 A Sure.

DiLeonardo - Direct/Goldberg

1761

1 Q What does labor peace mean?

2 A Like I said, no problems on the job with the union.

3 Q If you control the union, you can create problems?

4 A Absolutely.

5 Q What were some of the unions the Gambino crime family
6 controlled?

7 A Local 282 Teamsters, Local 23, the laborers,
8 restaurant workers local.

9 Q There were others?

10 A Yes.

11 Q You mentioned the restaurant workers union. Was
12 there a particular person at the union that you
13 controlled?

14 A Yes, a fellow, I never met him. His name was Vito
15 P-I-T-T-A.

16 Q P-I-T-T-A?

17 A I think so.

18 Q Prior to the Gambino crime family, control of Vito
19 Pitta, do you know if any other crime family controlled
20 him?

21 A Yes, the Colombo familiar.

22 Q Anyone in particular?

23 A Jackie DeRoss.

24 Q You have mentioned a few times the construction
25 industry. What involvement did the Gambino crime family

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1 have in the construction industry?

2 A We controlled all the concrete companies in the city
3 just about, and like I said, the labor locals and a lot of
4 contractors, so we had just about our hand in every aspect
5 of construction.

6 Q How did the Gambino organized crime family make money
7 from that control?

8 A If a contractor, like I said, wanted to leave guys
9 off a job, say there were 100 laborers on a job and they
10 wanted to put 50 on the books and 50 non-union workers or
11 even less, that's just a number I'm using, whatever they
12 would save paying the union wages, they would give to us
13 as a payment.

14 Q What if somebody wanted to get into the construction
15 industry, what would they have to do?

16 A With the concrete industry?

17 Q Some business, they want to start working in the
18 concrete business, what would they have to do?

19 A The concrete pourers, they were controlled by us.
20 Any family that wanted to put somebody up to open up a
21 concrete company had to go through the Gambino family,
22 that was one of the rules set up. Any family would have
23 to come for permission from us to go into the business.

24 Q Have you ever heard of something called the
25 construction panel?

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1 A Yes, I formed that.

2 Q What was that?

3 A The time I took over the construction after Gravano
4 cooperated, we were having problems with people in other
5 families making side deals. We couldn't control it and
6 see who was making the deal. If they got away with a
7 deal, wise guys were doing a deal, we wouldn't know unless
8 it became a problem.

9 When I seen this, I made a suggestion that each
10 family have a representative or several representatives to
11 control this issue, and if anybody got caught making a
12 side deal, it wouldn't count and they would be dealt with
13 by their family.

14 Q What families were involved in the construction
15 panel?

16 A All the families.

17 Q Including the Colombo family?

18 A Yeah.

19 Q Was there anyone in particular that you dealt with in
20 the beginning in the Colombo family on construction
21 matters?

22 A Yes, in the beginning, when there were two separate
23 factions in the Colombo family and with this one deal with
24 the concrete, I dealt with a fellow named Joe Scopo.

25 Q I'm showing you 2-E, who is that?

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1 A Joe Scopo.

2 Q What was his position in the Colombo family?

3 A He was a captain.

4 Q Did you deal with anyone else on construction matters
5 from the Colombo family over the years?

6 A Yes; Jimmy Clemons, Frank Mealy, Jackie DeRoss,
7 Allie. Bill a little bit.

8 Q Bill Cutolo?

9 A Bill Cutolo.

10 Q Can you give us a ballpark figure of how much money
11 the Gambino crime family has made over the years
12 controlling the construction industry?

13 A My tenure or even before?

14 Q Gambino family tenure.

15 A 100 million, 200 million, who knows.

16 Q How about during your tenure?

17 A I must have brought in over 2 million.

18 Q When you were arrested in June of 2002, how much
19 money were you making from stock scams?

20 A I started out with 2,000, a front from this fellow I
21 had around me involved in the stock business, and it grew
22 to 150,000 a month.

23 Q Who was that fellow you had around you?

24 A Sal Romano.

25 Q How much were you making in June 2002 when you were

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1 arrested from shylocking?

2 A Not too much. Maybe a couple thousand a month.

3 Q When you were arrested in June of 2002, first of all,
4 do you remember the exact date?

5 A The 20th.

6 Q Were you arrested on an indictment?

7 A Yes.

8 Q What were you charged with in that indictment?

9 A Murder, conspiracy, shylocking, construction
10 extortion.

11 Q What was the main charge?

12 A Murder.

13 Q Were you charged with racketeering?

14 A Racketeering.

15 Q You said murder, whose murder were you charged with?

16 A Fred Weiss.

17 Q At that time, were you charged with the other two
18 murders that you testified you were involved in?

19 A Yes.

20 Q You were charged with those murders?

21 A No, I was not.

22 Q Were you arrested alone or as part of a larger case?

23 A Larger case.

24 Q What was the maximum sentence that you were facing
25 when you were arrested?

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1 A Life.

2 Q Were you taken before a federal judge?

3 A Yes.

4 Q Did you plead not guilty?

5 A Yes.

6 Q What did the judge do, were you released?

7 A No. They set up a bail hearing for like a month
8 later.

9 Q What happened at the bail hearing?

10 A About a month after that I was denied bail.

11 Q Sorry?

12 A We applied for bail and about a month after that, the
13 denial came in for bail.

14 Q When you were denied bail, did the judge make any
15 particular findings about you?

16 A I was a danger to the community.

17 Q Were you, in fact, a danger to the community?

18 A Yes.

19 Q Why?

20 A I was with the Gambino family.

21 Q Was there any particular reason you wanted to get out
22 of jail at that time?

23 A To control my affairs I had on the street, the
24 construction business, the monies I had out there, the
25 businesses I had. Being in there, it's hard to keep a

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1 hold on it.

2 Q When you were denied bail and kept in jail, did that
3 prevent you from communicating with members of your crew?

4 A No.

5 Q How did you do that if you were in jail?

6 A Through visits up at the jail and attorneys.

7 Q At that time when you were in jail, were you
8 incapacitated as a mobster?

9 A No.

10 Q At some point when you were in jail, did you learn
11 that something happened to you with respect to your
12 standing in the Gambino crime family?

13 A Yes, it was a process of about four months, five
14 months that I started to learn that everything that I had
15 on the street they took away from me, all my earnings, all
16 my monies, even some tattoo parlors that I had, my family
17 wasn't getting my assets. That angered me. But later on
18 I had heard it through my girlfriend at the time,
19 Madelena, that one of my friend's father's, a wise guy in
20 my crusade, it wasn't right what they did to Michael and a
21 couple of other guys, they broke me and put me on the
22 shelf.

23 Q Were there any allegations made about you at that
24 time?

25 A Well, like I said, it was a process. They had said

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1 that Eddie Garafoli, my partner in the construction
2 business, and I were robbing or hiding from the family
3 \$15,000 a month from a steel company in New Jersey, which
4 was a lie.

5 Q When you were put on the shelf, what does that mean,
6 put on the shelf?

7 A You are disenfranchised. You become a non-entity.
8 You are not to be recognized by other wise guys or have
9 any position or authority or any say; they can treat you
10 like that.

11 Q At the time that that happened, how long had you been
12 a made man in the Gambino crime family?

13 A 14 years.

14 Q How long had you been involved in the Gambino crime
15 family?

16 A My whole life just about.

17 Q How did that make you feel when you were informed
18 that you were stripped of power?

19 MS. KEDIA: Objection, your Honor.

20 THE COURT: Sustained.

21 Q Were you happy with that?

22 MS. KEDIA: Objection, your Honor.

23 MR. GOLDBERG: We can approach.

24 THE COURT: Yes.

25 (Continued on the next page.)

Sidebar

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1 (Sidebar.)

2 THE COURT: Ms. Kedia, I assume you are going to
3 go into this area on cross-examination as to -- I assume
4 you are going to go into this area on cross-examination,
5 what was his motivation to cooperate, etcetera. What is
6 your objection really about?

7 MS. KEDIA: How he felt when --

8 THE COURT: I thought that was a bit much. Give
9 me your response.

10 MR. GOLDBERG: Just what you said, your Honor,
11 it goes to his motivations why he cooperated. It explains
12 why he -- my next few questions are what did you do.

13 THE COURT: Let's go get to the what did you do.

14 MR. GOLDBERG: I want the one question how he
15 felt about that.

16 MR. BURETTA: They are going to.

17 MS. KEDIA: I withdraw the objection. Let him
18 ask it.

19 (Sidebar concluded.)

20 (Continued on the next page.)

21

22

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1 (In open court.)

2 THE COURT: The objection is withdrawn.

3 BY MR. GOLDBERG: (Cont'd)

4 Q Mr. DiLeonardo, how did it make you feel when you
5 were stripped of your power, having been in the mob for
6 your whole life?

7 A Broke my heart, devastated me.

8 Q Did you have an understanding as to who had the
9 authority to make that decision, to break you?

10 A Yes, the administration of the Gambino family.

11 Q Who was it at the time?

12 A Pete Gotti, the boss, Joseph Corozzo and Arnold
13 Squiteri; Arnold being the underboss, and Corozzo being
14 the consigliere.

15 Q After learning that you had been broken, did you make
16 a decision as to how you wanted to resolve your pending
17 case?

18 A Yes, I decided I would cooperate.

19 Q When you decided to cooperate, did you meet with
20 federal prosecutors?

21 A Yes.

22 Q During that first meeting, did you admit your role in
23 the murder of Fred Weiss?

24 A Yes.

25 Q Did you admit your role in the extortion of the

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1 construction industry?

2 A Yes.

3 Q Did you admit your role in loan-sharking?

4 A Yes.

5 Q Did you admit to committing crimes you had not been
6 charged with?

7 A Many.

8 Q Including murders?

9 A Sure.

10 Q Why did you admit these crimes if you had not been
11 charged?

12 A Because I was going to be truthful, forthcoming.

13 Q After that initial meeting, did you agree to meet
14 with the government again?

15 A Yes.

16 Q Did this pose any security concerns for you?

17 A Yes, being I was in jail, yeah.

18 Q How did you address that?

19 A At the time, my mother was in the hospital, she was
20 gravely ill and I wanted to see her. It was around that
21 time of year, around Thanksgiving, and they applied for --
22 my lawyer applied for compassionate bail, which the
23 government would not oppose for two weeks.

24 Q Did you make an agreement to do anything during those
25 two weeks?

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1 A They said they would let me out if I wired up and
2 tried to capture three targets.

3 Q What do you mean by wired up?

4 A Wear a wire on the street while I was out on bail and
5 talk to some people, these three individuals.

6 Q You indicated that your lawyer was going to apply for
7 bail and the government would not oppose that request. Do
8 you know whether the judge was aware that you were
9 cooperating at the time?

10 A Yes, he was.

11 Q Was bail granted for that period of time?

12 A Yes.

13 Q Who were the three targets, by the way?

14 A Johnny Rizzo, Joseph Corozzo and Thomas Carbonara,
15 Huck.

16 Q Were you able to wire up against them?

17 A No.

18 Q Why not?

19 A I couldn't get them to come in. Two other fellows
20 came to see me, but I guess it was a little peculiar I got
21 let out on bail. Nobody else did. It must have raised a
22 red flag. Besides, before I cooperated, as I was about to
23 cooperate, in MCC, I was with my ex-brother-in-law Frankie
24 Fabiano and I confided in him and told him I was going in
25 and gave him an opportunity to come in with me.

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1 Q When you were trying to make recordings of these
2 three targets, you asked to meet with them and they
3 refused?

4 A Right.

5 Q Did you have an understanding of what would happen to
6 you at the end of this two-week period?

7 A Yes, I was going to a safe house.

8 Q A safe house controlled by who?

9 A The FBI.

10 Q Did you have an expectation as to whether you would
11 have to return to the MCC?

12 A No, I wasn't going back to the MCC.

13 Q What's the MCC?

14 A It's a holding jail in lower Manhattan, federal.

15 Q What did you understand was going to happen at this
16 safe house?

17 A I was going to be debriefed by the government and the
18 prosecutors, everything I know my whole life.

19 Q During this two-week period, you were granted bail,
20 were you placed under any restrictions?

21 A Yes, one of the restrictions was any time I left my
22 house, I had to wear this device, I had to be monitored.
23 And also, that I could go up and see my mother in the
24 hospital, which I did. I could go to church and I could
25 go to a lawyer's office.

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1 Q Could you go see your own doctor?

2 A Yeah.

3 Q You mentioned that you were at a house during this
4 two-week period of time. Whose house?

5 A Madelena.

6 Q Your current wife?

7 A Correct.

8 Q Where was that house?

9 A Oceanside Avenue in Staten Island.

10 Q During this two-week period of time, did you have an
11 understanding whether you were under surveillance?

12 A 24/7.

13 Q Did there come a time while you were out on bail that
14 you went to see a doctor?

15 A Yes.

16 Q Did the FBI approve that?

17 A Yes.

18 Q What did you ask the doctor for?

19 A I was having problems sleeping from when I made that
20 decision that I was going to cooperate when I was in jail,
21 I just couldn't sleep. I sleep maybe 15 minutes at a
22 time, wake up, with all the stress, I started -- I was
23 really distraught on the decision I made. It wasn't a
24 natural decision to make, to make that decision, and I
25 couldn't sleep.

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1 When I got home, same problems, I couldn't sleep
2 and I asked -- I never take medication to do anything,
3 painkillers, anything like that, I asked permission to go
4 see a psychiatrist where they can prescribe something
5 where I can relax.

6 Q Was something prescribed for you?

7 A Yes.

8 Q What?

9 A Ambien and Zoloft, one a day, one each.

10 Q When you went home and went to bed, did you take the
11 medication that had been prescribed for you?

12 A I took one each, like around dinnertime.

13 Q Did you go to bed at that point?

14 A Well, I would say around 10:00, 11:00 I marched up to
15 bed.

16 Q Sorry?

17 A About 10, 11:00, I went to bed.

18 Q What happened next?

19 A I went to sleep finally, woke up in the middle of the
20 night having some bad dreams, again, completely distraught
21 about my decision to be sitting in this chair today. I
22 never wanted to do this.

23 On the way down, I started thinking about
24 romance, die with honor, slitting their wrists, taking a
25 hot bath and just dying, a good soldier. Samurais falling

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1 on their swords, glorifying my death a little bit with
2 honor.

3 I walked down the stairs, went to the sink, I
4 opened up all the pills and I swallowed them. I said I
5 hope John Jr. appreciates this, and I went upstairs
6 looking in the bedroom where my son Anthony was sleeping
7 in my bed, looked at them to say goodbye and went to
8 sleep.

9 Q What happened next?

10 A I woke up in the hospital.

11 Q Did you see anyone?

12 A Yeah, Madeline, and I was angry with her for waking
13 me up.

14 Q How long were you in the hospital?

15 A A couple of days.

16 Q Where did you go next?

17 A Back to MCC, in the hole.

18 Q What do you mean, the hole?

19 A They put me in the Special Housing Unit where the
20 terrorists were.

21 Q How long were you in that unit?

22 A Six months.

23 Q What was that like?

24 A It was the Hanoi Hilton.

25 Q What do you mean by that?

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1 A Steel and concrete cell, six cells designed for
2 terrorists, and it had the lights on 24 hours a day. It
3 was freezing cold, no heat, no hot water, no toilet paper.
4 I was in a cell naked with nothing. So that lasted about
5 a week like that, and they finally gave me a jumpsuit.
6 That stayed like that for six months, those conditions.
7 Food was horrible. They played with my food. The guards
8 do all kinds of silly things to it.

9 Q During that six months, did you have meetings with
10 the government?

11 A I started and stopped.

12 Q Why did you start and stop?

13 A Because I just couldn't do it, I couldn't see myself
14 sitting there talking to agents and prosecutors.

15 Q Did you consider going back under your initial
16 decision to talk with agents and prosecutors?

17 A I considered dying in that cell.

18 MR. GOLDBERG: Your Honor, I'm about to go to
19 another area. Should I keep going?

20 THE COURT: Yes.

21 Q Did there come a time, sir, that you made a final
22 decision regarding your cooperation?

23 A Yes, John Jr., he was in Ray Brook Prison, and my son
24 Michael at the time hadn't come to see me when I was in
25 population, and when this came out, that I was going to

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1 cooperate, they had sent my son up to prison to go see
2 John in jail and see me, try to stop me from cooperating
3 and manipulated my son, and I got angry over that and
4 decided to cooperate.

5 Q Do you know how your son felt about you cooperating?

6 A He was devastated to right now, he don't talk to me.

7 Q Why?

8 A I cooperated, I broke his heart, I broke the kid's
9 heart.

10 Q Did you teach your son certain rules about
11 cooperating when he was growing up?

12 A Never give up your friends.

13 Q When was it that you made this final decision to
14 cooperate?

15 A Sometimes in February, I believe.

16 Q 2003?

17 A Yeah.

18 Q At that point, did you get further debriefed by the
19 government?

20 A It started in earnest, I would say, sometimes in
21 March. Even after I made the decision I wasn't ready, I
22 had lost a lot of weight.

23 Q Did you discuss further your crimes?

24 A When I met with the government?

25 Q Yes.

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1 A Yes, just about everything over a long period of
2 time.

3 Q Did you discuss crimes that other people committed?

4 A Correct.

5 Q How many people did you talk about approximately?

6 A Well, I seen hundreds of pictures and I talked about
7 just about everybody I knew about, so it could be
8 hundreds.

9 Q How many people in the Gambino crime family were you
10 debriefed about?

11 A Just about everybody that I know.

12 Q Were you debriefed about people in other crime
13 families?

14 A Yes.

15 Q Did there come a time when you pled guilty?

16 A I believe it was May 1st of '03.

17 Q Were You required to forfeit any property?

18 A Yes, I had 51 acres upstate New York, Roscoe, I
19 forfeited that.

20 Q How much was that worth?

21 A Over 100,000.

22 Q When you pled guilty, did you plead guilty only to
23 the charges that were pending or additional charges?

24 A Additional charges.

25 Q You had been charged with the murder of Fred Weiss,

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1 did you plead guilty to that?

2 A Correct.

3 Q Did you plead guilty to the construction company
4 crimes?

5 A Correct.

6 Q Did you plead guilty to committing extortion?

7 A Correct.

8 Q Did you plead guilty to committing money laundering?

9 A Correct.

10 Q Stock fraud?

11 A Correct.

12 Q Loan-sharking?

13 A Correct.

14 Q Illegal gambling?

15 A Correct.

16 Q Extortion conspiracy?

17 A Correct.

18 Q You pled guilty to all those crimes?

19 A Correct.

20 Q Did you plead guilty to the murder of the person you
21 identified as Jack?

22 A Yes.

23 Q Had you been charged with that murder at the time you
24 were first arrested in June 2002?

25 A No, the government knew nothing about that.

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1 Q You told them?

2 A Right.

3 Q Did you plead guilty to your involvement in the
4 murder of Frank Hydel?

5 A Yes.

6 Q Were you charged with that murder when you were first
7 arrested?

8 A No.

9 Q To your knowledge, did the government know about your
10 involvement in that crime?

11 A No.

12 Q Why did you tell the government if they didn't know?

13 A I said I was going to go in and tell the truth.

14 Q Did you plead guilty to the crimes you committed in
15 Atlanta that you had been arrested for previously?

16 A Yes.

17 Q You were acquitted of those charges?

18 A That's correct.

19 Q Why did you plead guilty to them?

20 A I was guilty.

21 Q When you pled guilty, did you plead guilty to every
22 single crime you had ever committed in your life?

23 A No.

24 Q Were there any charges that the government wanted you
25 to plead guilty to that you refused?

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1 A No.

2 Q To this day, have you been sentenced for your crimes?

3 A No.

4 Q When you pled guilty and before that, when you were
5 cooperating, did you strike a deal with the government as
6 to what your sentence would be?

7 A No.

8 Q Did the government make any promise at the time you
9 started cooperating about what your sentence would be?

10 A No.

11 Q Have they ever made a promise about what your
12 sentence will be?

13 A No.

14 Q What is your understanding about the maximum sentence
15 that you may face one day?

16 A I can face life.

17 Q When you pled guilty, did you plead guilty pursuant
18 to a written agreement?

19 A Yes.

20 MR. GOLDBERG: May I approach, your Honor?

21 THE COURT: Yes.

22 Q I'm showing you Government Exhibit 3500 MDL-1. Do
23 you recognize that, sir?

24 A It is my agreement.

25 Q Your cooperation agreement?

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1 A Correct.

2 Q Do you know what district this agreement is with?

3 A Southern District.

4 Q Are we in that district now?

5 A No, this is Eastern.

6 MR. GOLDBERG: We offer 3500 MDL-1.

7 MS. KEDIA: No objection.

8 MR. LaRUSSO: No objection.

9 THE COURT: Received in evidence.

10 (Government Exhibit 3500 MDL-1 received in
11 evidence.)

12 Q When you pled guilty and signed this agreement, what
13 happened to your house on Staten Island that Madelena
14 lived in?

15 A They said she could keep it, it was her house at the
16 time, they said she could keep it.

17 Q How about your first wife, Toni Marie?

18 A That was also her house, and she got to keep that
19 also.

20 Q When you were divorced, did she get that house?

21 A She had it before that, I never made a claim to that
22 house, that was hers with my son Michael.

23 Q The house that Madeline was in, was that sold at some
24 point?

25 A Yes.

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1 Q What happened?

2 A She had sold it and --

3 Q What happened to the proceeds?

4 A An attorney of mine was holding the money, Richie
5 Gravante, and then the government had taken it.

6 Q The government took the proceeds of the sale?

7 A Yeah, pending a sentence.

8 Q Do you have an understanding you are going to be
9 subject to fines and penalties and perhaps restitution?

10 A That's what I understand.

11 Q Do you know whether that money, the proceeds from the
12 house sale will go towards that?

13 A Yes, that's -- if there is some or all of it or
14 whatever.

15 Q During the time that you were in the witness
16 protection program, did you receive financial institution
17 -- financial assistance from the marshal service?

18 A Yes.

19 Q Do you get a stipend?

20 A Yes, monthly stipend of 2,200 and change.

21 Q Were there also expenses that the marshals paid on
22 your behalf, money you didn't actually touch that went
23 towards expenses?

24 A Yes, hotels that my family and I had stayed in until
25 we got settled. Corporate apartments right after that.

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1 Moving expenses. Doctors. It was a lot of expenses
2 there.

3 Q Do you know how much money has been spent on you with
4 respect to the witness protection program?

5 A Yes, in a previous trial I was shown an affidavit
6 that said between all that stuff about 250, \$250,000.

7 Q Who is supporting you right now?

8 A Working myself with the FBI.

9 Q What is your understanding, sir, of what your
10 obligations are under this agreement, 3500 MDL-1, what do
11 you have to do?

12 A Show and call up for courts and debriefings and to
13 tell the truth.

14 Q What has the government agreed to do?

15 A Write a letter to the judge extending all my crimes,
16 misdeeds and also my cooperation, how extensive it is.

17 Q Have you ever heard of a 5K?

18 A That's it.

19 Q That's the letter?

20 A Yes.

21 Q Do you have an understanding of whether you can
22 withdraw your guilty plea if the government ultimately
23 decides not to file a 5K letter?

24 A I can't.

25 Q If the government files a 5K letter, can the judge

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1 still sentence to you life?

2 A Yes.

3 THE COURT: Mr. Goldberg, it's time for us to
4 take a break now. I will allow you to continue your
5 direct examination of this witness after lunch.

6 We will resume here at 1:30. Have a nice lunch.
7 Make it 1:45.

8 (The jury leaves the courtroom.)

9 (Continued on the next page.)

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1 A F T E R N O O N S E S S I O N

2

3 THE COURT: Mr. Goldberg, about how much longer,
4 approximately?

5 MR. GOLDBERG: About an hour and a half.

6 THE COURT: All right.

7 (Whereupon, the jury at this time entered the
8 courtroom.)

9 THE COURT: All right, we are all set to
10 continue. Please be seated.

11 You are still under oath.

12

13 DIRECT EXAMINATION (Cont'd)

14 MR. GOLDBERG:

15 Q Good afternoon, sir.

16 A Good afternoon.

17 Q Before lunch we were talking about the fact that you
18 had not been sentenced yet, do you remember those
19 questions?

20 A Yes.

21 Q At the time of your sentence, is the government going
22 to recommend to the sentencing judge any particular
23 sentence?

24 MS. KEDIA: Objection, your Honor. Foundation.

25 Q What is your understanding as to what the government

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1 will do at sentencing?

2 A Submit my 5K.

3 Q Will they make a recommendation as to sentence?

4 MS. KEDIA: Objection, your Honor.

5 THE COURT: If you know.

6 Your objection is overruled.

7 A No.

8 Q Do you know whether the government's decision to file
9 a 5K letter on your behalf turns on the outcome of this
10 trial?

11 A No.

12 MS. KEDIA: Objection, your Honor.

13 THE COURT: Overruled.

14 Q What is your understanding what will happen if you
15 are not truthful in your testimony at this trial?

16 A You can tear up my agreement.

17 Q Would you get a 5K letter?

18 A No.

19 Q Would you be able to take your plea back?

20 A No.

21 Q Turning your attention to Billy Cutolo, when did you
22 first meet Billy Cutolo?

23 A I believe it was the late '70s.

24 Q What was your position in the Gambino crime family
25 when you met him in the late '70s?

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1 A An associate.

2 Q How did you come to meet him?

3 A The first dealing I had with him went through Pauly
4 Sack, because he was a wise guy, and Bill wanted to get --
5 he was a beef, a fruit buyer, and Billy was a wise guy.
6 It was the early '80s, I believe, and Pauly Sack, a wise
7 guy, and I couldn't sit with Billy at that time, so Pauly
8 sat down in his beef with the fruit buyer.

9 Q Do you remember the name of the fruit buyer?

10 A Louis Burdo.

11 Q How do you spell that?

12 A B-U-R-D-O.

13 Q What is a beef?

14 A A disagreement, a dispute.

15 Q And Pauly Sack was your soldier?

16 A Yes.

17 Q What was Billy Cutolo's rank at the time you first
18 came to know about him?

19 A He was a soldier.

20 Q Explain to the jury why you couldn't meet with him.

21 A I was an associate, and if you stand on protocol,
22 which Billy did, he didn't want to talk to me. I was
23 making the claim with Louis, he had to talk to Pauly, and
24 they can do that.

25 Q Were you present when that sitdown occurred?

DiLeonardo - Direct/Goldberg

1790

1 A No.

2 Q What was a sitdown?

3 A It was when two wise guys get together and we have --
4 try to hammer out the details of why you sit there.

5 Q What is a wise guy?

6 A A made member.

7 Q What does it mean, to be straightened out?

8 A To be inducted.

9 Q Did there come a time when you were officially
10 introduced to Billy Cutolo?

11 A Yes.

12 Q And what was your rank at the time?

13 A Soldier.

14 Q What was his rank?

15 A He was a captain.

16 Q When was that meeting?

17 A Sometime in '86 -- '89.

18 Q Do you recall that meeting?

19 A No.

20 Q Did you get to know Billy Cutolo?

21 A Yes.

22 Q What was your impression of Billy Cutolo as you got
23 to know him?

24 A He was very assertive, aggressive fellow, or very
25 wise on Cosa Nostra, he knows the life.

DiLeonardo - Direct/Goldberg

1791

1 Q What do you mean by knowing the life?

2 A He knew the rules and stuck by protocols of the life.
3 He was a worthy adversary when you sat down with this guy.

4 Q What do you mean by that?

5 A He didn't give an inch, Billy. He was a tough
6 negotiator. That's one thing I think he was lacking, the
7 ability to concede.

8 Q Directing your attention to the early 1990s, what was
9 going on with the Colombo crime family at that time?

10 A They broke into factions and they were at war with
11 each other.

12 Q What were the names of the two factions?

13 A It was the Persico faction, and there was the Vick
14 Arena faction.

15 Q Showing you 2-C, who is that?

16 A That's Vick.

17 Q Vick Arena?

18 A Correct.

19 Q And that's Mr. Persico?

20 A I think at the outset he was in jail.

21 Q Who were the leaders of the Arena faction?

22 A Joe Scopo, Vinnie Alois, Wild Bill was part of that
23 committee, a few other fellows.

24 Q You mean Bill Cutolo as Wild Bill?

25 A Right.

DiLeonardo - Direct/Goldberg

1792

- 1 Q Were there casualties as a result of the Colombo war?
- 2 A Yes.
- 3 Q What kind of casualties?
- 4 A Deaths.
- 5 Q Do you know someone named Tommy Gioeli?
- 6 A Yes.
- 7 Q Showing you 2-I; Tommy Gioeli?
- 8 A Yes.
- 9 Q What side was he on in the war?
- 10 A Persico.
- 11 Q When you were arrested in June of 2002, by the way,
- 12 what was Tommy Gioeli's role in the Colombo family?
- 13 A He was running the family.
- 14 Q Did John Gotti, Sr. have any interest in the Colombo
- 15 war?
- 16 A Yes, he instigated to throw out Carmine Persico as
- 17 the controlling member of the family, Junior.
- 18 Q When you say Junior, that's a name you refer to
- 19 Carmine Persico?
- 20 A Yes.
- 21 Q Different from John Gotti, Jr.?
- 22 A Yes.
- 23 Q And you say he was influencing someone?
- 24 A Yes, Vick.
- 25 Q Vick Arena?

DiLeonardo - Direct/Goldberg

1793

1 A Yes.

2 Q What do you mean by that?

3 A He told Vick, he called Carmine a rat, which wasn't
4 called for. John wanted to control the Commission seats,
5 and he could never do that with Carmine Persico. It could
6 never happen. And he used Vick as a puppet, and have the
7 five seats -- the Bonanno family to vote, they would
8 control three; Bonanno, Colombo and Gambino families.

9 Q Who was the official boss of the Gambino family
10 during the war?

11 A John Gotti.

12 Q Where was he during that time?

13 A He was in jail. When the war started, he was in the
14 street.

15 THE COURT: I didn't hear what you said, sir.

16 THE WITNESS: He was in the street.

17 Q Did that change?

18 A Yes. Then he got arrested in '90.

19 Q You mentioned Joseph Scopo identified him before,
20 what side of the war was he on?

21 A The opposite faction than Persico, the Arena.

22 Q How about Billy Cutolo?

23 A On the Arena faction also.

24 Q Were you ever present when John Gotti, Jr. met with
25 the leaders of the Arena faction?

DiLeonardo - Direct/Goldberg

1794

1 A Yes.

2 Q Who would he meet with?

3 A Joe Scopo and Bill.

4 Q How about Vinnie Aloï?

5 A Yes.

6 Q And who was Aloï?

7 A A captain on that side.

8 Q When you say that side, you mean the Arena side?

9 A Right.

10 Q Where was -- where would those meetings occur, the
11 meetings between John Gotti, Jr. and the meetings of the
12 Arena faction?

13 A Some of the meetings was on Rockaway Beach on the
14 boardwalk.

15 Q Why would you meet there?

16 A Usually in the late of night, held under cover of
17 darkness in an area, there were guys at war, so it would
18 be an open place where if they were being followed, they
19 would be able to see someone coming, or if law enforcement
20 was around, because there was a lot of heat at the time we
21 would be able to see them too.

22 Q When you say heat, what do you mean?

23 A FBI.

24 Q What was discussed at these meetings, the meetings
25 between John Gotti, Jr. and the leaders like Joe Scopo,

DiLeonardo - Direct/Goldberg

1795

1 Aloï and Cutolo?

2 A They were trying to talk about how to settle the
3 problem and putting the two factions back together, and
4 there were guys outside the family. And Persico was the
5 correct part of the family to be running it, and this
6 outside faction was trying to establish itself.

7 So when Junior and the other families were
8 trying to get together to negotiate, and being Junior and
9 John Sr., they decided -- sided with the Arena faction, it
10 would be easier to try to negotiate and a lot of things to
11 discuss.

12 Q Before the war started, what was Billy Cutolo's
13 highest rank?

14 A Captain.

15 Q Did he have some special rank during the course of
16 the war?

17 A Yes, he was helping to run the family then.

18 Q What ultimately happened to Joe Scopo?

19 A He was murdered.

20 Q When was that?

21 A I believe '93, around there.

22 Q After Joe Scopo was murdered, was there a notable
23 decrease at all in the violence associated with the
24 Colombo war?

25 A Yes, it let up.

DiLeonardo - Direct/Goldberg

1796

1 Q In your view, did the Colombo war end at that point?

2 A No. The other factions didn't come in. They were
3 supposed to come in and they did not, so --

4 Q What happened, which faction prevailed, if you will,
5 at that time period?

6 A We went back to the Persico faction.

7 Q And how was it that everyone knew that the Persico
8 faction had prevailed?

9 A That's the way it was delegated. That's the way the
10 families agreed.

11 Q The Commission?

12 A No, there was no Commission at that time. There were
13 panels going out there.

14 Q Did there come a time -- you said that Alphonse
15 Persico was in jail. Did there come a time he was
16 released from jail?

17 A After the mid '90s.

18 Q And did he assume a position in the Colombo crime
19 family?

20 A He was the acting boss.

21 Q What happened to the men on the Arena side of the war
22 when the violence subsided?

23 A They started to trickle in a little at a time. There
24 was still a faction, even until 2002 when I came in, there
25 was still a faction outside that did not come in.

DiLeonardo - Direct/Goldberg

1797

1 Q What happened to Billy Cutolo?

2 A He came in.

3 Q Do you know how he came in?

4 A He made an agreement, and Junior told me he came in
5 and bought a gift.

6 Q Being John Gotti, Jr.?

7 A Yes.

8 Q Did he maintain his position as captain?

9 A No. He came in as a soldier.

10 Q After Alphonse Persico got out of jail, did your
11 relationship with him develop?

12 A Yes.

13 Q How would you characterize that relationship over
14 time?

15 A Started to grow closer and closer. I grew quite fond
16 of Allie.

17 Q Did you have any problems with Alfonse Persico?

18 MS. KEDIA: Objection.

19 THE COURT: Overruled.

20 Q Do you have any problem with Alfonse Persico?

21 A No. He is a great guy, and Jackie.

22 Q The last thing you said?

23 A And Jackie DeRoss.

24 Q Did you ever talk with Jackie DeRoss about your
25 future relationship with the leaders of the Colombo

DiLeonardo - Direct/Goldberg

1798

1 family?

2 A He knew my feelings towards Allie. He would say
3 Allie loves you, you guys got a great future here.

4 Q When you say "you guys," who are you referring, who
5 did he refer to?

6 A Allie and myself.

7 Q How would you describe Alfonse Persico as a mobster?

8 MS. KEDIA: Objection, your Honor.

9 THE COURT: Sustained.

10 Q You got to know Alfonse Persico?

11 A Yes.

12 Q You met with him dozens of times?

13 A Yes.

14 Q Did you form impressions about him?

15 A Yes.

16 Q What were those impressions?

17 MS. KEDIA: Objection.

18 THE COURT: Please approach.

19 (Whereupon, at this time the following took
20 place at the sidebar.)

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DiLeonardo - Direct/Goldberg

1799

1 THE COURT: Your objection is based on --

2 MS. KEDIA: I believe the questions were about
3 his impression, Mr. Persico is a mobster.

4 THE COURT: Objection sustained as to that.
5 Your response to the objection?

6 MR. GOLDBERG: I think it is important
7 background to explain the dealings that he had with
8 Alfonse Persico, the dealings he has to testify to.

9 I expect him to say that he followed the rules
10 of the Cosa Nostra. He is not going to go into much. It
11 is a background question.

12 MR. BURETTA: He is not going to say he is a
13 cold-blooded killer.

14 THE COURT: He is saying he is a great guy. So
15 the next answer should be positive.

16 MR. GOLDBERG: Objection. Prejudicial.

17 THE COURT: You want to withdraw the question?

18 MS. KEDIA: The question that is posed to the --
19 should be posed to the witness is did you follow the
20 rules?

21 THE COURT: I think they have to have some
22 background to make sense.

23 MS. KEDIA: I understand that question, wanting
24 to elicit that he was somebody who followed the rules.
25 But that's a different question than what was your

DiLeonardo - Direct/Goldberg

1800

1 impression of him as a mobster.

2 MR. GOLDBERG: That's fine

3 (Whereupon, at this time the following takes
4 place in open court.)

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DiLeonardo - Direct/Goldberg

1801

1 THE COURT: The question is to be rephrased?

2 MR. GOLDBERG: Yes.

3 Q Mr. DiLeonardo, was Alphonse Persico someone who
4 followed the rules?

5 A Yes.

6 Q Can you explain that?

7 A He was a grade administrator, he knew the life, the
8 protocols, knowing how to deal with people. He knew when
9 to be assertive and when to be a little relaxed in a
10 situation. He didn't walk around with a top hat and
11 overcoat. He didn't have to. I had a great deal of
12 respect for the man, the way he carried himself and
13 administrated.

14 Q Sir, have you ever heard of a company called
15 L'Aquila, L, apostrophe, A-Q-U-I-L-A?

16 A Yes.

17 Q And what was L'Aquila?

18 A They were a concrete company putting up buildings
19 that then went into the concrete pouring business.

20 Q Was L'Aquila controlled by any particular crime
21 family?

22 A The Colombo family.

23 Q Directing your attention to 1992, 1993, what happened
24 with L'Aquila?

25 A The person who was handling L'Aquila was Joey Scarpa.

DiLeonardo - Direct/Goldberg

1802

1 He went to John, Jr. Gotti and went for permission to open
2 up a concrete pouring plant.

3 Q Why did he have to go and ask permission of John
4 Gotti, Jr.?

5 A Again, the Gambino family controlled that.

6 Q What happened?

7 A John called me over to the conversation. Joey
8 explained that the Colombo family was willing to give up a
9 hundred thousand dollars key money, good faith money, and
10 we could work on some kind of payment schedule every
11 month.

12 Q Did you say K-E-Y money?

13 A Yes.

14 Q What is key money?

15 A Open the door, like I said.

16 Q What happened?

17 A I went to talk to my partner Eddie Garafola. He had
18 been dealing on the construction business and handing out
19 the concrete industry at one time. And he said to break a
20 protocol, we shouldn't let them in. I dealt with John
21 once. He said if it is with John once, let's just do it.

22 Q Who is Eddie Garafola?

23 A He was a soldier in the Gambino family, and my
24 partner.

25 Q Partner in what?

DiLeonardo - Direct/Goldberg

1803

1 A Construction business.

2 Q Illegal construction?

3 A Yes.

4 Q And what happened next?

5 A Went back and told John, who told Joey Scarpa, and
6 they agreed to get the hundred thousand and set up a
7 payment schedule as to the amount of yards poured, and we
8 would whack up the proceeds, split it.

9 Q When Garafola said it is a bad idea to let L'Aquila
10 in your business, can you explain that to the jury, what
11 it means?

12 A Yes. There were already certain concrete companies
13 we controlled, our family, the Colombo family and other
14 families in business already. And to put another company
15 in there, which was to confuse the mess, and add another
16 company in there, that shouldn't have been.

17 Q So, what happened next?

18 A They went to open up their business, and then Joey
19 Scopo gets killed.

20 Q After Joey Scopo gets killed, what happened to the
21 arrangement of paying key money from the Colombo family to
22 the Gambino family?

23 A Joey Scopo's brother, Ralphie, started to handle
24 L'Aquila, and he just said there was no deal. He just
25 stopped L'Aquila from paying us and held back the money.

DiLeonardo - Direct/Goldberg

1804

1 Then we had some disagreements in trying to
2 hammer his thing out. Ralphie for some reason was a
3 little stubborn and wouldn't acknowledge the deal.

4 Q Now, when did Alfonse Persico get out of jail in
5 relation to Ralph Scopo saying, we didn't have a deal?

6 A Two and a half, three years.

7 Q Did there come a time you met with Alfonse Persico
8 with regard to this dispute?

9 A Yes. What happened was after this dispute, we had
10 sat down with some other people in that Colombo faction on
11 the Arena side, and we finally came to terms on the deal.
12 I think they paid \$75,000 towards the key money, and we
13 decided that we were going to go on a \$10,000 fee at that
14 time, which the Colombos would get 5,000 and we would get
15 5. And they paid some retroactive money we owed after
16 they got the dispute.

17 At this time, when Allie comes home and we
18 discussed this L'Aquila situation, he said it wasn't right
19 that you guys let them in, even though he was with them --

20 Q That meaning the Arena faction?

21 A The Colombo family itself.

22 Q Okay.

23 A He said for those reasons we would not let any more
24 contract, concrete families in the city.

25 He said by you taking the money from that

DiLeonardo - Direct/Goldberg

1805

1 faction, you certified they were a viable entity. They
2 were at war already and he had no control over those guys.

3 So, if we were doing business with them, we
4 would be acknowledging them. So he asked to stop. And if
5 and when we get the deal back together again, he would pay
6 the retroactive money.

7 Of which he was a thousand percent right, and
8 made a decision on that basis.

9 Q Did Alfonse Persico ever express an interest in
10 meeting with John Gotti, Jr. with regard to this dispute?

11 A Allie, no.

12 Q Okay.

13 Did anyone?

14 A I had made simple attempts to get Junior to meet on a
15 lot of issues.

16 Q Would he meet with Allie Persico?

17 A No. He said you are doing it, you keep doing it. I
18 know all the stuff that went on in the past. You should
19 go meet him.

20 Q You were a captain?

21 A Right. But I had close proximity, I had the boss'
22 ear.

23 Q How did it come to be that you were able to meet with
24 Alfonse Persico on matters such as these?

25 A Jackie DeMicco came in and said he felt Junior was

DiLeonardo - Direct/Goldberg

1806

1 supposed to meet with him first, and Junior appoints me,
2 knowing we were both from Bensonhurst. And I said I knew
3 the family very well, and he actually volunteered me to do
4 it, which I was pleased to do.

5 So, he sent Jackie and myself to meet Allie, and
6 another individual, Joe Baudanza, to the restaurant in
7 Manhattan.

8 MR. LA RUSSO: May we identify Jackie?

9 THE WITNESS: Jackie DeMicco.

10 Q That's your captain when you were made?

11 A Yes.

12 Q Who is Joe Baudanza?

13 A A captain with the Colombo family.

14 Q You were at this restaurant. Who is at the
15 restaurant?

16 A The four of us; Baudanza, DeMicco, Allie and myself.

17 MS. KEDIA: Can we get a time frame.

18 Q When was this?

19 A I would say about '96.

20 Q What was discussed?

21 A What was discussed was the L'Aquila situation, like I
22 just laid out.

23 Q What did Jackie DeMicco say to Alphonse Persico and
24 Joe Baudanza, if anything, about your status in the
25 Gambino family?

DiLeonardo - Direct/Goldberg

1807

1 A That the introductions on who we are to each other.
2 He then stated when you look at Michael, you talk to him
3 like you are talking to a guy, and he also said he had the
4 decision-making capacity, and you don't have to go back
5 and forth if I didn't want to for yeses and nos. He gave
6 me full authority to make a decision.

7 THE COURT: Who is "he"?

8 THE WITNESS: John Gotti, Jr.

9 Q What was meant by the phrase, it is like talking to a
10 Gotti?

11 A Well, he is putting it in the framework of like
12 talking to the hierarchy.

13 Q Were there any payments ever made from the Colombo
14 family to the Gambino family with regard to L'Aquila?

15 A Yes.

16 Q Did Alfonse Persico ever make payments to you?

17 A Yes.

18 Q Were they ever in person?

19 A Yes.

20 Q How much did he pay you?

21 A Himself throughout the whole thing?

22 Q Himself.

23 A About 60,000 or so, total.

24 Q Cash?

25 A Cash. That's a guesstimate.

DiLeonardo - Direct/Goldberg

1808

1 Q Where were the payments made?

2 A If I seen him at the house or somebody else.

3 Q Who is Angelo Spata, S-P-A-T-A?

4 A Allie's brother-in-law.

5 Q Did you ever meet at his house?

6 A Yes.

7 MR. GOLDBERG: May I approach, your Honor?

8 THE COURT: Yes.

9 Q Showing you Government's Exhibit 87.

10 Do you recognize that?

11 A It looks like his house, Angelo's house.

12 MR. GOLDBERG: The Government offers 87.

13 MS. KEDIA: No objection.

14 MR. LA RUSSO: No objection.

15 THE COURT: Received in evidence.

16 (Whereupon, Government's Exhibit 87 was received
17 in evidence.)

18 Q How many meetings did you have with Alfonse Persico
19 and others at Angelo Spata's house,
20 Government's Exhibit 87?

21 A I think two.

22 Q Are you familiar with, Dom Goffredo?

23 A Yes.

24 Q Who is he?

25 A At one time an associate of ours, who was a delegate

DiLeonardo - Direct/Goldberg

1809

1 in the plumbers union.

2 Q What plumbers union?

3 A I believe 1.

4 Q Local 1?

5 A Yes.

6 Q And was Local 1 controlled by any crime family?

7 A Colombos.

8 Q Anyone in particular?

9 A Jackie DeRoss.

10 Q Was there a dispute at one time about who controlled
11 Goffredo?

12 A Yes, it started with Bill.

13 Q Who?

14 A Cutolo.

15 He was like a delegate for the union, and Bill
16 tried to claim him. Meanwhile, he had been around our
17 family for a long time. He was an oldtimer. And that's
18 where it started, going back and forth with this guy,
19 where he belonged, what family.

20 Q Were there meetings over the dispute about Dom
21 Goffredo?

22 A With Bill, yes, it initially started with Bill, yes.

23 Q Were there meetings with other people in the Colombo
24 family?

25 A Yes, later on Jack and Allie.

DiLeonardo - Direct/Goldberg

1810

1 Q Jack DeRoss?

2 A Yes.

3 Q And Alphonse Persico, when you say Allie?

4 A Yes.

5 Q How was that dispute resolved?

6 A We wound up making a switch. We gave them Dom and
7 another guy, I forget his name. And we got a fellow named
8 Vinnie Renelli.

9 Q Spell that.

10 A R-E-N-E-L-L-I.

11 Q You mentioned a couple of times this concept of a
12 switch. What is a switch in organized crime?

13 A It usually doesn't happen, but sometimes you take an
14 associate and switch them with another family, and it
15 becomes their problem.

16 Q Did you develop a view as to how Billy Cutolo handled
17 disputes?

18 A Yes. Everybody would be with him.

19 Q What do you mean?

20 A Whenever Billy thought someone was on to him, he made
21 claims and you had to disprove him wrong about people.

22 Q What does it mean, to make a claim or lay a claim?

23 A It became their problem with that family or that
24 person.

25 Q And did you form an impression about how Billy Cutolo

DiLeonardo - Direct/Goldberg

1811

1 resolved disputes over those claims?

2 A Very tough to resolve a dispute with Bill.

3 Q How about Alfonse Persico, the same question?

4 A Allie was very levelheaded and understanding these
5 things and seeing right through Bill.

6 Q Directing your attention to 1996, 1997, did you come
7 to know someone named Chris Ludwigsen, L-U-D-W-I-G-S-E-N?

8 A Yes.

9 Q Is that yes?

10 A Yes.

11 Q Who was Chris Ludwigsen?

12 A He was an associate of -- at one time claimed by
13 three families. He was a nightclub owner in Florida, and
14 our family claimed him, a guy named Johnnie Rizzo, an
15 acting captain, and Bill claimed him, and a fellow named
16 TG, Tony Graciano.

17 Q What family was that?

18 A The Bonnano family.

19 And Johnnie Rizzo and TG got together to
20 undermine his attempt.

21 Q Why were three families making a claim with it?

22 A It started with two, but Johnnie Rizzo enlisted his
23 good friend TG to lie about certain facts about Chris,
24 that he belonged there also.

25 So, if either one of those families won it, we

DiLeonardo - Direct/Goldberg

1812

1 win.

2 Q Anything valuable about Chris Ludwigsen?

3 A He was a big guy in nightclubs in Miami Beach.

4 Q How was this incident resolved?

5 A All the parties were lying about this kid Chris. He
6 just became a commodity because of the money he was
7 earning. And we had finally had to sit down in a
8 restaurant in Bay Ridge, Allie and myself, TG didn't show
9 up. He sent his brother-in-law, John Sirnokio, and I will
10 not attempt it.

11 Q What happened at this meeting with everyone in Bay
12 Ridge?

13 A Johnnie Rizzo was there also.

14 After sometime, they were going back and forth
15 and Allie and I sat back listening and these guys, we both
16 came to the understanding that they are all lying about
17 this guy.

18 So, I asked Allie if I could talk to him on the
19 side, which he did. And I said, you know, they are lying.

20 He said, Johnnie Rizzo is lying, too.

21 I said, everybody is lying.

22 I said, I got an idea. My nose goes against the
23 grain and breaks protocol, but why not let the kid decide
24 where he wants to be.

25 Q Who is that?

DiLeonardo - Direct/Goldberg

1813

1 A Chris.

2 I said, I really don't want somebody who doesn't
3 want to be with us.

4 This claim wasn't for me, it was for Johnnie
5 Rizzo, and when I asked for the family, because of my
6 relationship with Allie and Bill.

7 We did that. And it was agreed.

8 Q What did Chris Ludwigsen decide as to which family he
9 wanted to go with?

10 A Well, at a future meeting he decided with the Persico
11 faction.

12 Q Do you have an understanding as to why he decided to
13 go that route?

14 A Yes. He was close with a couple of guys his age
15 there, Dom and Rico.

16 Q When you say Dom, showing you 2, bravo bravo, is that
17 the person you are referring to?

18 A Yes.

19 Q Did he have a nickname?

20 A Black Dom.

21 Q Who was Black Dom and Rico?

22 A Close associates of Billy Cutolo.

23 Q Did you get to know the other men in Billy Cutolo's
24 crew?

25 A Yes. They were from my neighborhood, so I knew about

DiLeonardo - Direct/Goldberg

1814

1 them growing up.

2 Q Who were some of the people you got to know?

3 A Robert D'Onofrio.

4 Q Showing you 2-Q.

5 Who else did you meet?

6 A Joey Lakes Lugrano, L-U-G-R-A-N-O.

7 Q Anybody else?

8 A Joe Smash. He was an oldtime wise guy.

9 Q Showing you 2-R.

10 Who is that?

11 A That's Joe Smash.

12 Q Who else did you meet that was in Billy Cutolo's
13 crew?

14 A Joe Campy was a friend of mine.

15 Q And showing you 2-N, who is that?

16 A Joe Campy.

17 Q Who else did you meet in Billy Cutolo's crew?

18 A Joey's brother, Frank. He was not a wise guy.

19 Q He was just an associate?

20 A Right.

21 Q 2-T --

22 A That's Frank.

23 Q Who else did you meet? Did you meet someone named
24 Paul Rizzuto?

25 A He became an associate later on. He was originally

DiLeonardo - Direct/Goldberg

1815

1 with our family and got switched over.

2 Q Showing you 2-KK. Who is that?

3 A That's Pauly.

4 Q Did you get to meet Billy Cutolo's son?

5 A Briefly a couple of times.

6 Q What was his name?

7 A I think Bill, Jr.

8 Q Did you ever meet Joe Campanella as a made member?

9 A Yes.

10 Q Describe the meeting.

11 A The day I met him, I don't know that.

12 Q When was the last time you talked to him?

13 A The last time I seen Joey was in MCC.

14 Q How long ago?

15 A Had to be 2004.

16 Q Before then?

17 A We were in the street together. 2001 maybe.

18 Q Do you know someone named John Florida?

19 A No.

20 MR. GOLDBERG: F-L-O-R-I-D-I-A.

21 A I heard of him, but I don't know him.

22 Q Do you know if Billy Cutolo had a social club?

23 A Yes.

24 Q Where was it?

25 A Somewhere in the 70's on 11th Avenue.

DiLeonardo - Direct/Goldberg

1816

1 Q Do you know if there was a particular day in the week
2 he had a crew night?

3 A It was either a Tuesday or Wednesday.

4 Q What is a crew night?

5 A One of those night -- language you want to attach to
6 it. When guys come one night a week. It is a meeting
7 place where you make sure everybody comes. Certain guys
8 did it, certain guys didn't. Billy did it.

9 Q Did you ever go there?

10 A Once.

11 Q What were the circumstances under which you went to
12 Billy Cutolo's club?

13 A Dom had beat up a kid.

14 Q When you say Dom, the person you identified before as
15 Dominick Dionisio?

16 A Yes.

17 Q Would you describe what Dominick Dionisio was like as
18 a member of Billy Cutolo's crew?

19 A He wasn't made. But a very aggressive kid. Quick
20 with his hands, a tough kid. But with Bill, they walked
21 around like King Kong, without a license.

22 Q Did you know someone in Billy Cutolo's crew named
23 Sali?

24 A Sali -- I had one incident with Sali, yes.

25 Q Showing you 2-MM, also marked as Persico C.

DiLeonardo - Direct/Goldberg

1817

1 Who is that?

2 A That's him.

3 Q Sali?

4 A Sali.

5 Q What was the incident you had with Sali?

6 A I had an associate of mine I hadn't seen for a couple
7 of years. One day he knocks on my door in Staten Island.
8 He is in a panic and tells me he is having a problem with
9 a shylock he owes money to that comes from 11th Avenue,
10 and the guy is on his phone threatening to kill him, his
11 family, kids, dog, everything, if he didn't pay the money.

12 I got dressed and went with him, and told him to
13 call the guy back and to meet us on 14th Avenue and 86th
14 Street, and Anthony drove me over there to meet Sal.

15 MS. KEDIA: Time frame?

16 THE COURT: Yes.

17 Q When was this? Was it before or after Billy --

18 A No, Billy was gone already. I would say 2000 or '99.
19 I'm not sure.

20 Q Do you know someone named Top Tomato?

21 A The name of a food store.

22 Q Do you know somebody in the Gambino family referred
23 to that?

24 A Carmine Top Tomato. He was an acting captain with
25 us.

DiLeonardo - Direct/Goldberg

1818

1 Q Did you come to learn of a dispute that Carmine and
2 Top Tomato had with Joe Campanella?

3 A I don't think he had a dispute. He may have mediated
4 a dispute.

5 Q Tell us about that.

6 A Joey Campanella was -- Pete Castellano had a son,
7 Frank who was married, and Joey was having an affair with
8 his wife.

9 Q And what happened?

10 A They tried to mediate it, and Carmine I thought was
11 asking for satisfaction for Joe being a wise guy, for
12 going with a wise guy's daughter-in-law. Nothing
13 happened.

14 Q Why not?

15 A I don't know. Joey was still walking around the
16 girl, so nothing happened.

17 Q Directing your attention to the mid to late 1990s,
18 when you talked about meetings you had with Alfonse
19 Persico and Jackie DeRoss.

20 Where were the various locations that you met
21 Alfonse Persico when you had meetings over the years?

22 A I met him in Dyker Park, a schoolyard.

23 Q D-Y-K-E-R?

24 A Yes. In Dyker Heights, Brooklyn.

25 Q Can you describe that area?

DiLeonardo - Direct/Goldberg

1819

1 A Yes. It is like a middle school there I used to go
2 to, PS 201. And there is a school, a schoolyard. And a
3 little further up is a park with some benches and some
4 swings and stuff like that, and I would meet Allie up
5 there on that end.

6 Also some restaurants, out in the street, Angelo
7 Spata's house.

8 Q Directing your attention back to the Dyker Heights
9 area you were describing, is there a bagel store there?

10 A A few there, yes.

11 Q Do you know any bagel store Alphonse had an interest
12 in?

13 A Yes, on 76th Street, with his brother.

14 Q Do you know if Alphonse Persico has any relatives
15 living in the Dyker Heights area?

16 A Yes, his mom lives several blocks away on 85th
17 Street.

18 Q The park location you are referring to, do you know
19 if there are any pay phones in that area?

20 A No.

21 Q Have you ever used pay phones in the Dyker Heights
22 area?

23 A Sure.

24 Q Do you know if Alfonse Persico has ever had any
25 interest in a car company or a limousine company?

DiLeonardo - Direct/Goldberg

1820

1 A Yes. They have an interest on Romantique Limousine
2 Service.

3 MS. KEDIA: Can we clarify the "they"?

4 THE WITNESS: Allie and Michael Persico.

5 Q Would Alfonse Persico ever tell you about his views
6 of the La Cosa Nostra?

7 A Well, at the time we were talking about certain
8 things with his family. They weren't allowed to
9 straighten out any guys, and he asked me to help him out,
10 which I did.

11 I went to Pete and said to start straightening
12 out guys, to stop. When things calmed down.

13 Q Was he talking about problems and frustrations he was
14 having within the Colombo crime family?

15 A Yes. During the course of trying to put the family
16 back together, the Genovese family didn't want the Persico
17 faction to prevail. They were against everything that
18 Allie boy was trying to put the thing to rest, peace, and
19 he wanted -- they wanted everybody under his roof.

20 They would prevent the frustrations in that
21 area. And Pete having a family didn't put enough
22 initiative to put these things together. Was
23 acknowledging people doing business.

24 So, I was trying to change that position in our
25 family because, again, they were right.

DiLeonardo - Direct/Goldberg

1821

1 Q In the years leading up to 1999, the years leading up
2 to May 1999, how would you describe Billy Cutolo's power
3 status, not necessarily his rank, but his power status in
4 the Colombo family?

5 A In '99?

6 Q In the years leading up to 1999?

7 A Okay.

8 Billy had boss mentality. He wasn't going to
9 stay as a soldier under Allie. He became very aggressive
10 again. You could see him coming like a train.

11 Q What do you mean by like a train?

12 A He had a lot of momentum behind him. He wasn't about
13 to sit still. It wasn't his nature. He was a very
14 aggressive fellow. He was all about Cosa Nostra, and he
15 wanted to wear the main hat, the main.

16 Q What was his crew like during that period of time?

17 A They were a formidable crew. A lot of them stood
18 trial for murders and stuff and a lot went to trial and
19 beat it. They were a formidable crew.

20 Q During this time, you indicated you were very close
21 with Alfonse Persico, and Billy Cutolo was coming like a
22 freight train, or like a train. Did you ever express
23 concerns to Alfonse Persico about Billy Cutolo?

24 A Yes. There was one time we had a meeting in the
25 park, Dyker Park, I believe, and like I said, I liked

DiLeonardo - Direct/Goldberg

1822

1 Allie very much, and not that I disliked Billy, but Billy
2 was very difficult. And from my perception from what I
3 was seeing, I took a shot with Allie, and told him that
4 Bill has boss mentality.

5 Q When was this meeting in relation to May, 1999? How
6 long before?

7 A Several months, I would say.

8 Q And what exactly did you tell Alfonse Persico about
9 Billy Cutolo?

10 A All I had to say. He knew what I meant, boss
11 mentality.

12 He was aggressive, not only with our family. He
13 was like that with everybody. And Billy was a threat to
14 Allie.

15 Q What do you mean, he was a threat to Allie?

16 A I think he would have killed him. I know he would
17 have killed Allie in time.

18 Q When you were making these comments to Alfonse
19 Persico, that Billy Cutolo had a boss mentality, did
20 Alphonse Persico appear to be listening to you?

21 A Yes, sure.

22 Q Did he appear to be taking it seriously?

23 MS. KEDIA: Objection, your Honor.

24 THE COURT: Sustained.

25 Q How did he appear at the time?

DiLeonardo - Direct/Goldberg

1823

1 A Very calm and looked at my eyes.

2 Q Did you recommend to Alfonse Persico at that time
3 that Billy Cutolo be shelved?

4 A No. I took a shot with the comment I made. It was
5 to go no further. I took a shot with him that it wasn't
6 going to go no further -- I wasn't going to tell him how
7 to run his family. I just told him my concerns for his
8 well-being with that comment. He knew exactly what I
9 meant.

10 MS. KEDIA: Objection. I would like to strike
11 the witness' testimony as to what he knew.

12 THE COURT: That is struck.

13 MR. GOLDBERG: The last part?

14 THE COURT: Yes, the last part.

15 Q Year impression as to whether Billy Cutolo was
16 someone who could be shelved?

17 A I think he would rather kill him.

18 Q Why do you say that?

19 A He wasn't going to be taken being shelved. It wasn't
20 in him.

21 Q Now, I want to direct your attention to mid-1999.

22 Did there come a time in mid-1999 that you had a
23 meeting scheduled with Billy Cutolo?

24 A Yes.

25 Q In a sentence or two, what was the meeting to be

DiLeonardo - Direct/Goldberg

1824

1 about?

2 A Stock, stock beef.

3 Q Dealing with stock fraud?

4 A Yes.

5 Q Where was the meeting?

6 A It was going to be in Angelo Spata's house.

7 Q What I'm putting up on the screen, Exhibit 87, right?

8 A Yes.

9 Q Who set up the meeting?

10 A A reach-out through Eddie Garafola.

11 Q Did you end up going to the meeting?

12 A Yes.

13 Q Did you go alone?

14 A With Eddie Garafola.

15 MS. KEDIA: Time frame?

16 THE COURT: Mid-1999.

17 Q When you arrived at Angelo Spata's house for the
18 meeting with Garafola, who was there?

19 A Allie and Jackie DeRoss.

20 Q When you went into the house, what was the first
21 thing you said?

22 A Hellos.

23 Q What else?

24 A I said, where is he?

25 Q When you said where is he, who are you referring to?

DiLeonardo - Direct/Goldberg

1825

1 A Bill.

2 Q When you said where is he, what, if anything, did
3 Jackie DeRoss say in response?

4 A He hadn't heard, he was missing for a week.

5 Q Did he say anything else?

6 A And he says, you will be dealing with us now and
7 everything will be easy.

8 Q And everything will be easy, he said?

9 A Easier.

10 Q Easier.

11 When Jackie DeRoss said, haven't you heard, he
12 had been missing for a week, who did you understand him to
13 be referring to?

14 A Bill.

15 Q Bill Cutolo?

16 A Right.

17 Q Where was Alphonse Persico when Jackie DeRoss said,
18 haven't you heard, he had been missing for a week?

19 A He was standing maybe a little behind Jack.

20 Q What was Jackie DeRoss's demeanor when he said this?

21 A Calm.

22 Q What was Alfonse Persico's demeanor when Jackie
23 DeRoss said this?

24 A Same, calm.

25 Q What was Billy Cutolo's rank at the time of this

DiLeonardo - Direct/Goldberg

1826

1 meeting?

2 A He was the underboss.

3 Q When Jackie DeRoss said to you Billy Cutolo was
4 missing for a week, did he ask --

5 MR. LA RUSSO: Objection, your Honor.

6 THE COURT: Please don't lead him. Just tell us
7 what other conversation you had.

8 Q Was there anything else discussed at that point?

9 A No.

10 Q When Jackie DeRoss said he had been missing for a
11 week, what did you understand Jackie DeRoss to be telling
12 you?

13 A That he's dead.

14 Q As a result of this conversation, did you form an
15 understanding as to who was responsible for Billy Cutolo's
16 death?

17 A Yes.

18 Q Who was that?

19 MS. KEDIA: Objection, your Honor.

20 THE COURT: Sustained.

21 Q By the way, you testified before about rules from the
22 La Cosa Nostra, and rules against killing someone in the
23 crime family without permission. Do you remember
24 testifying about that?

25 A Yes.

DiLeonardo - Direct/Goldberg

1827

1 Q Is there a difference in organized crime between
2 killing an associate without permission and killing an
3 underboss without permission?

4 A Yes. One is more egregious.

5 Q How much more egregious?

6 A Much more. It's an underboss. It is part of the
7 administration.

8 Q Did there come a time you saw Alfonse Persico once
9 again after this meeting at Angelo Spata's house?

10 A Yes.

11 Q And where was this particular meeting?

12 A Which one?

13 Q This later meeting with Alfonse Persico.

14 A I believe I met him with Dom sometime after that, in
15 Dyker Park.

16 Q Black Dom?

17 A Correct.

18 Q What did you need to meet with Alfonse Persico about?

19 A To sell that stock beef.

20 Q And remind us who Black Dom is.

21 A An associate of Bill's at the Colombo family.

22 Q What was Black Dom's demeanor when you saw him at
23 this subsequent meeting with Alfonse Persico?

24 A He was very weak, like a lamb.

25 Q Did you form an impression about that?

DiLeonardo - Direct/Goldberg

1828

1 A Yes, the wind was taken out of his sails when Billy
2 was dead.

3 Q Now, sir, in the aftermath of Billy Cutolo's
4 disappearance in May of 1999, and through your arrest in
5 June of 2002, what was your relationship like with the
6 leadership of the Gambino crime family?

7 A Good.

8 Q Who was the boss on the street during that time in
9 the Gambino crime family?

10 A John was on the committee running the family until
11 January '98 when he was arrested, and then Pete Gotti
12 became the acting boss.

13 Q Between May of 1999 and June of 2002 when you were
14 arrested, were you still the liaison between the Gambino
15 family and the Colombo family?

16 A Right.

17 Q Did you ever hear of any investigation that the
18 Colombo family was undertaking to find the whereabouts of
19 Billy Cutolo?

20 A No.

21 Q What was Jackie DeRoss' rank just prior to Billy
22 Cutolo's disappearance?

23 A He was a captain.

24 Q Did you come to learn that he had his rank changed?

25 A Yes.

DiLeonardo - Direct/Goldberg

1829

1 Q To what?

2 A Underboss.

3 Q Now, sir, you testified that you believe Billy Cutolo
4 was murdered.

5 Have you ever seen his body?

6 A No.

7 Q How do you know he didn't run away?

8 A My opinion of Billy Cutolo would never --

9 MS. KEDIA: Objection, your Honor.

10 THE COURT: Please approach.

11 (Whereupon, at this time the following took
12 place at the sidebar.)

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DiLeonardo - Direct/Goldberg

1830

1 THE COURT: Your response to the objection.

2 MR. GOLDBERG: A major defense has emerged from
3 the opening statements that Billy Cutolo is not dead and
4 that he fled.

5 This person knew Billy Cutolo since the 1970's.
6 He is entitled to say what he feels about that, and why he
7 believes Billy Cutolo was murdered and didn't just flee.
8 This is central.

9 MS. KEDIA: The Federal Rules of Evidence makes
10 it very clear that a lay witness cannot express opinion
11 testimony, which is exactly what this witness is doing.
12 He has absolutely no personal knowledge as to whether
13 Billy Cutolo is dead. He testified he didn't see his
14 body. Certainly he cannot testify that anyone told him
15 that they killed Billy Cutolo. He cannot testify that
16 anyone told him that they ordered the killing of Billy
17 Cutolo.

18 I renew my application to strike this witness'
19 prior testimony that Billy Cutolo was, in fact, killed.

20 MR. GOLDBERG: It all goes to the basis of his
21 understanding what happened to Billy Cutolo. He is clear
22 based on his discussions with these individuals and based
23 on his life in organized crime.

24 I'm happy to ask him also, by the way, if Billy
25 Cutolo ever mentioned something about fleeing.

DiLeonardo - Direct/Goldberg

1831

1 THE COURT: Was this testimony in the last
2 trial?

3 MS. KEDIA: No.

4 MR. GOLDBERG: He testified at the last trial as
5 to what he believed happened to Billy Cutolo. And he
6 testified he was killed over no objection.

7 MR. LA RUSSO: He already said what he
8 understood the words that were spoken to him by my client.
9 He felt that Billy Cutolo was dead and killed. He already
10 got it out.

11 Now he is speculating. He is asking for an
12 opinion and setting it up for the government.

13 THE COURT: This is in response to your defense
14 where you opened on the fact that Billy is missing.

15 MR. LA RUSSO: But you do it through facts and
16 conversations.

17 THE COURT: What facts do you have that he is
18 missing?

19 MS. KEDIA: That's argument, and that's what we
20 will be arguing to the jury. The witness can't testify as
21 to his opinion what happened to Billy Cutolo unless he has
22 facts.

23 MR. GOLDBERG: I will ask him the question, did
24 Billy Cutolo ever talk to you about fleeing? And they can
25 ask about his view. It is clear that in organized crime

DiLeonardo - Direct/Goldberg

1832

1 he has a definite view of what happened. It is fact
2 testimony.

3 MS. KEDIA: I don't have any problem with the
4 question about whether Billy Cutolo asked him -- spoke to
5 him specifically about fleeing.

6 I would renew my application to strike this
7 witness' testimony that he was killed because this witness
8 cannot state that as a fact as he did.

9 MR. GOLDBERG: You didn't object at the time I
10 asked the question.

11 Secondly, I have no problem about asking his
12 question --

13 THE COURT: Don't ask opinions.

14 MR. GOLDBERG: I will ask him if Billy Cutolo
15 asked him anything about fleeing, and I'm pretty much
16 done.

17 MS. KEDIA: The fact that we didn't object at
18 the moment, certainly we can renew or make any application
19 at any time.

20 THE COURT: You can't, but it carries less
21 weight.

22 MS. KEDIA: I understand that. But at the same
23 time, it is an inappropriate statement for the witness to
24 make and then strike it. He cannot testify without the
25 ultimate fact. The jury is here to determine that.

DiLeonardo - Direct/Goldberg

1833

1 THE COURT: The jury can disbelieve him.

2 MS. KEDIA: Yes, but he can't testify to that
3 when he doesn't have any personal knowledge of it.

4 MR. GOLDBERG: Judge, he is testifying about his
5 understanding about what these defendants meant when they
6 were talking to him.

7 MS. KEDIA: That's fine, Judge. I have no
8 problem with that. But --

9 THE COURT: You have no problem, but.
10 I made a ruling. Go ahead.

11 (Whereupon, at this time the following takes
12 place in open court.)
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DiLeonardo - Cross/Kedia

1834

1 Q Did you, in all the years that you knew Billy Cutolo,
2 did he say anything whatsoever to you about fleeing?

3 A Never.

4 MR. GOLDBERG: No further questions.

5 CROSS-EXAMINATION

6 BY MS. KEDIA:

7 Q Mr. DiLeonardo, you have testified on a number of
8 occasions, right?

9 A That's correct.

10 Q And you have spent hundreds of hours preparing your
11 testimony, right?

12 A Yes, in total.

13 Q In total?

14 A Yes.

15 Q Over the course of your cooperation?

16 A Right.

17 Q Approximately four years?

18 A Five.

19 Q You met with agents and prosecutors, dozens, if not
20 hundreds, of times; is that correct?

21 A Correct.

22 Q Mr. DiLeonardo, you testified about breaking your
23 promise to the Gambino family, the oath of silence you
24 took approximately 14 years ago; is that what you are
25 saying?

DiLeonardo - Cross/Kedia

1835

1 A It is actually the Cosa Nostra.

2 Q The promise to Cosa Nostra that you made 14 years
3 ago; is that right?

4 A Yes.

5 Q But long before 14 years ago, you began a life of
6 crime, right?

7 A Around 12 years old.

8 Q And you learned how to lie and cheat and steal way
9 back when?

10 A Absolutely.

11 Q Long before you knew anyone you knew who were
12 affiliated in organized crime?

13 A I was born to organized crime.

14 Q You certainly wasn't an associate of age 12?

15 A Yes, I was.

16 Q You were an associate at age 12?

17 A That's the way it was in my mind.

18 Q Who were you associated with in your mind at the
19 time?

20 A My grandfather.

21 Q When you say in your mind, explain what that means.

22 A Well, at 12 years old nobody came and took me and
23 brought me up front and put me on record and things like
24 that. But I grew up in Cosa Nostra from knee high when I
25 could first learn about guys coming around with Cadillacs

DiLeonardo - Cross/Kedia

1836

1 and Lincolns and hats. That's what I always aspired to
2 be. So I always felt I had an interest in being like that
3 when I grew up.

4 When I was 14 years old, I was associated with
5 the Italian American Civil Rights Club. So I was rebound
6 at that time doing things.

7 Q Meaning you were aspiring to become --

8 A Absolutely.

9 Q And you were officially put on record at what page?

10 A I would say the mid to late '70s, so early 20's, when
11 I was --

12 Q And during the time before you were officially put on
13 record, were you kicking up money?

14 A No.

15 Q When you were an associate, it is one of the
16 associates, kicking up money?

17 A Yes.

18 Q And prior to your officially being put on record --
19 you weren't doing that, right?

20 A Right.

21 Q Now, you talked about a time when you actually
22 participated in an induction ceremony; is that right?

23 A Yes.

24 Q And you were actually taken to someone's house, and
25 you were told about rules, right?

DiLeonardo - Cross/Kedia

1837

1 A Yes.

2 Q Was it ever told to you when you arrived at that
3 induction ceremony that you could leave?

4 A Could leave?

5 Q Yes.

6 A You mean at any time get up and walk out?

7 Q When you brought -- were brought to the induction
8 ceremony, who brought you?

9 A Jack DeMicco.

10 Q There were several people there?

11 A Yes.

12 Q And did any of those people say to you,
13 Mr. DiLeonardo, you can leave right now if you want to?

14 A No, nobody said that.

15 Q You certainly never asked to leave because you were
16 aspiring to become --

17 A Absolutely. It was a dream at that time.

18 Q Now, you testified about various rules that you are
19 told in an induction ceremony?

20 A Yes.

21 Q And these rules you say are broken day in and day
22 out; is that right?

23 A Yes.

24 Q It is something you know is going in that happens; is
25 that right?

DiLeonardo - Cross/Kedia

1838

1 A Yes.

2 Q It is something you know is happening throughout the
3 time you are involved in organized crime; is that right?

4 A Yes.

5 Q And you are someone who considered yourself a
6 stickler for the rules of organized crime?

7 A Somewhat. I broke a few myself.

8 Q Even though you were somewhat of a stickler?

9 A Right.

10 Q And certainly, there are a whole host of other people
11 that aren't sticklers, right?

12 A Yes, you are right. A lot less than I knew, yes.

13 Q There are people doing their own thing for their own
14 interest?

15 A That's all legal.

16 Q And they are not following any rules that they are
17 told?

18 A Well, they try not to get caught when they are doing
19 it.

20 Q Meaning they are trying to do it behind people's
21 back?

22 A Covertly.

23 Q And they are successful many times, right?

24 A Yes.

25 Q You testified about a time you decided you were going

DiLeonardo - Cross/Kedia

1839

1 to become a cooperating witness; is that right?

2 A Yes.

3 Q And in fact, you testified that after you were
4 arrested, I believe it was in the end of 2001 or 2002?

5 A No, June 20th, '02.

6 Q At some point you didn't make bail, right?

7 A I believe it was August when I was finally denied.

8 Q Meaning you had an application in, but you were in?

9 A Right.

10 Q In jail?

11 A Correct.

12 Q And that at some point the judge ruled you are not
13 getting out?

14 A Right.

15 Q Right?

16 A Right.

17 Q And during that time, did you -- did you have
18 discussions with people in your family?

19 A Crime family or personal family?

20 Q In the Gambino family.

21 A Yes.

22 Q With who did you have discussions?

23 A The people I was locked up with.

24 Q Apart from that, were people on the street allowed to
25 come and see you?

DiLeonardo - Cross/Kedia

1840

1 A No.

2 Q And you testified that at some point around that time
3 when you were denied bail, you were actually --

4 A I came -- I would say in October or early November --

5 Q So, a couple of months after you were denied bail?

6 A Yes.

7 Q And in fact, it wasn't even one of the people in your
8 family -- when I say your family, I'm referring to the
9 Gambino family -- it wasn't a person in the Gambino family
10 who even told you about it; is that right?

11 A It was an indirect message from a wise guy in my
12 crew. Yes, it was somebody in the Gambino family.

13 Q When you say an indirect message, who told you about
14 it?

15 A Madelina, my girlfriend.

16 Q And she was told by someone else to tell you that you
17 were broken; is that right?

18 A Yes.

19 Q And you certainly had no power to do anything about
20 it, right?

21 A Oh, no.

22 Q You weren't asked what you thought about that
23 decision?

24 A No. They didn't even tell me directly. That's why I
25 said it was an indirect message.

DiLeonardo - Cross/Kedia

1841

1 Q No one even came to you and said it?

2 A No. They didn't have the nerve.

3 Q You weren't asked your opinion about what you thought
4 about being shelved?

5 A There is no opinion when it comes to administrative
6 decisions. That's what they ruled down. That's the way
7 it is. There is no opinion.

8 Q And you were someone with a fairly significant rank,
9 right?

10 A Yes. I was a captain, sure.

11 Q You were a captain -- not only were you a captain,
12 but you were helping -- at some point you were helping the
13 person who was running the family, run the family; is that
14 right?

15 A Yes. It was a big slight, yes.

16 Q And yet, you had no say?

17 A Absolutely.

18 Q Who made the decision to break it?

19 A Only three people could make that decision.
20 Actually, it is the boss, the underboss and the
21 consigliere, the administration.

22 Q And those people at the time was Peter Gotti?

23 A Yes, in jail.

24 Q Joe -- Arnold Squitteri?

25 A He was in the street.

DiLeonardo - Cross/Kedia

1842

1 Q And who amongst those people actually made the
2 decision about you personally?

3 A Who out there?

4 Like I said, it was all three who had to make
5 that decision.

6 Q When you say who had to, you are saying that one
7 person alone didn't have the authority to make that
8 decision?

9 A Yes. One person does. It is the boss. He can make
10 any decision he wants. But usually on those issues he --
11 administration was brand new. They really wouldn't
12 circumvent each other at that time.

13 Q When you say it was brand new, you are talking about
14 the administration of the Gambino family at that time?

15 A Yes.

16 Q And that's your belief, that they must have consulted
17 each other?

18 A Yes.

19 Q And certainly not something you were privy to, right?

20 A Certainly.

21 Q And something you didn't know it was happening until
22 it happened to you, right?

23 A I dealt in this situation of breaking captains who
24 were in jail before. It always came from the top. I know
25 firsthand how these things are done.

DiLeonardo - Cross/Kedia

1843

1 Q When you say it always came from the top, it always
2 came from a consultation amongst the administration?

3 A Yes.

4 Q When captains -- you testified now about captains who
5 had been broken in the past, and this is something that
6 happens routinely?

7 A Not routinely. It is just that it was the mindset of
8 the people that were running the family at the time that
9 really didn't have the skills to run a family, and they
10 were doing things that really wasn't nice and respectful
11 to send guys in jail. You don't break guys in jail, you
12 break them in the street like men, face up. You don't
13 wait for them to go to the jail. It is a punk act.

14 Q When you say break them in the street like men, you
15 mean when somebody is out in the street, someone in the
16 administration has the authority to say, you can't do
17 things on the street anymore, right?

18 A Yes. They call him face to face and you tell him man
19 to man, face up.

20 Q And certainly the boss has the authority to do that
21 to anyone, right?

22 A He can kill you, he can eat you, or he can break you.

23 Q And he can send you away, right?

24 A They don't send you away. You become -- he can tell
25 you to move. He can tell you to move. They do sometimes

DiLeonardo - Cross/Kedia

1844

1 tell people to move.

2 Q He can basically tell you to do anything he wants to
3 tell you to do?

4 A Exactly.

5 Q And when that happens, you don't have any choice
6 about it, you have no say in it?

7 A That is correct.

8 Q Now, Mr. DiLeonardo, when you are broken -- another
9 way to express that is to say that you are taken down; is
10 that right?

11 A Yes.

12 Q And, again, that means that you are either put on the
13 shelf altogether, or another thing that can happen to you
14 is that your rank is lowered; is that right?

15 A That's correct.

16 Q And, in fact, you can go from being a captain to a
17 soldier?

18 A Correct.

19 Q You can go from being the consigliere to a captain?

20 A Or soldier or nothing.

21 Q Or nothing?

22 A Right.

23 Q And certainly that can happen to the underboss as
24 well?

25 A Sure, any position.

DiLeonardo - Cross/Kedia

1845

1 Q And it is the boss who makes that decision?

2 A Ultimately.

3 Q Mr. DiLeonardo, you, one of the rules that you had
4 spoken about, the purpose of the rules is to generate
5 money, ultimately to generate money for people in the
6 various families; is that right?

7 A Yes.

8 Q And that's the ultimate goal?

9 A Yes. It is a money-driven machine.

10 Q And the more money people are making, the more money
11 in theory that the boss is making, right?

12 A Yeah.

13 Q And good earners are people who are valued, right?

14 A Absolutely.

15 Q Certainly when someone is a good earner, it is one of
16 the considerations that is taken when it is decided who is
17 going to be promoted; is that right?

18 A That's correct.

19 Q When you are a made member of any of these five
20 families, the rules are similar among the five?

21 A Yes.

22 Q There are some differences we may get into?

23 A Yes.

24 Q As a general manner, they are the same, right?

25 A Yes.

DiLeonardo - Cross/Kedia

1846

1 Q And one of the rules is you are not allowed to
2 introduce yourself to another member; is that right?

3 A Yes.

4 Q And you have to have a third party introduce you; is
5 that correct?

6 A Yes.

7 Q And that doesn't matter if the person is your
8 brother, right?

9 A That's right. And that third party has to know each
10 person already by an introduction, not just knowing. He
11 had to be introduced already. That's when you can make
12 that introduction.

13 Q So, meaning if you and your brother were associated
14 with the Gambino family, and then your brother went up in
15 rank, you would have to actually be introduced formally to
16 him at that rank?

17 A If I was a member.

18 Q If you were a member?

19 A Yes.

20 Q If he was a soldier and he became a captain, some
21 other person apart from you would have to come and
22 introduce you to him; is that right?

23 A That's right.

24 Q Is that what was done?

25 A Yes, sure. That's one of the rules -- I would say 99

DiLeonardo - Cross/Kedia

1847

1 out of 100 was done that way. I can only cite maybe one
2 incident.

3 Q When it wasn't done?

4 A Right.

5 Q So, that's one of the rules that was typically
6 followed by everybody?

7 A Yes.

8 Q Now, would you say, Mr. DiLeonardo, that there are a
9 lot of double standards in the Mafia?

10 A Hypocrisy and double standards, absolutely.

11 Q Meaning sometimes someone may get punished for
12 something and sometimes they don't?

13 A Some guys get promoted for dealing drugs and some
14 guys get killed.

15 Q It depends on who is running things at the time and
16 who the guy is?

17 A Yes.

18 Q It could be for personal reasons, that you like the
19 guy, or he is a good earner, it could be for any number of
20 reasons you decide not to take any action?

21 A Usually if you are close to the boss, you get a lot
22 of passes or a lot of winks to go ahead and do what you
23 are doing.

24 Q And then there are other times when somebody else
25 steps in and tries to protect the person; is that right?

DiLeonardo - Cross/Kedia

1848

1 A Yes.

2 Q And in fact, you had occasions to do things like
3 that?

4 A I'm sure I did, but give me an example.

5 Q Can you think of an example?

6 A Someone stepped in for me?

7 Q Where you stepped in for somebody?

8 A To protect them, yes.

9 When Sammy Gravano -- there was a lot of guys on
10 this crew, Ed Garafola, Lou Vallareio, V-A-L-L-A-R-E-I-O,
11 I think, and Thomas Carbanaro.

12 After Sammy flipped, the whole family was really
13 in a panic and upset, and there was two factions in the
14 family calling for blood. Nicky Corrozo wanted to have
15 those three fellows I just named killed, and Danny Moreno,
16 Jimmy Brown and Joe Watts wanted to have those individuals
17 killed. And I stepped in, and with a fight with Junior,
18 to save their lives.

19 Q In fact, you impressed upon everyone that this
20 shouldn't happen, right?

21 A Not everyone. I had one major argument with Jackie
22 DeMicco over it. And like I said, hard-pressed, a
23 relationship with Junior, I helped to save these guys.

24 Q Ultimately, although you were not part of this
25 administration, you prevailed?

DiLeonardo - Cross/Kedia

1849

1 A Yes. Like I said, Junior asked me to help him run
2 the family when he first took over. He really didn't know
3 too much, especially about the individuals in the family.

4 Q But you said no?

5 A I couldn't have ordered Junior to say no. But I
6 imposed myself on him.

7 Q Mr. DiLeonardo, I mean when Junior asked you to step
8 in and help run the family actually, you decided you
9 didn't want a position in administration, correct?

10 A Yes. That's when I said we stayed in the background
11 doing this.

12 Q You essentially were running things without any
13 official title?

14 A Absolutely.

15 THE COURT: Ms. Kedia, now is a good time to
16 take our 15-minute afternoon break.

17 Don't talk about the case.

18 (Whereupon, at this time the jury leaves the
19 courtroom.)

20 (Whereupon, a recess was taken.)

21

22 MS. KEDIA: I have an exhibit to hand up.

23 MR. BURETTA: Your Honor, I --

24 MS. KEDIA: Can we do this not in the presence
25 of the witness?

DiLeonardo - Cross/Kedia

1850

1 THE COURT: Yes. You step outside.

2 (Whereupon, at this time there was a pause in
3 the proceedings.)

4 THE COURT: This is a 1999 transcript, in the
5 matter of US versus John A. Gotti, Jr., and this was
6 before Judge Parker.

7 What portion did you want to use?

8 MR. GOLDBERG: Your Honor, there is no testimony
9 by Mr. DiLeonardo in this transcript.

10 MS. KEDIA: There is no testimony in the
11 transcript. I may use it to refresh his recollection as
12 to when it is that John, Jr. went to jail in 1999.

13 THE COURT: Can't you stipulate to that?

14 MS. KEDIA: I have no problem with that. He
15 surrendered on October 18th, 1999.

16 MR. GOLDBERG: She can ask the question and see
17 what he says.

18 MS. KEDIA: That's fine. If the government
19 wants to stipulate, that's fine. And if not, I can show
20 him this to refresh his recollection.

21 Is the government stipulating?

22 THE COURT: Ask him if he knows the date.

23 MR. GOLDBERG: We were just given this document
24 during the break.

25 MS. KEDIA: Your Honor, I just started

DiLeonardo - Cross/Kedia

1851

1 cross-examination. The portion is page 38. I will not
2 give him documents before the cross-examination.

3 THE COURT: Let's bring the jury in as soon as
4 the witness is on the stand.

5 (Whereupon, the jury at this time entered the
6 courtroom.)

7 THE COURT: Please be seated, if you would.

8 BY MS. KEDIA: (Cont'd)

9 Q Mr. DiLeonardo, we were just speaking when we broke
10 about Sammy Gravano and his crew; is that right?

11 A Yes.

12 Q And Sammy Gravano is someone who started to
13 cooperate, and there was a concern for his group?

14 A Yes.

15 Q And Sammy Gravano was someone you were close to at
16 that time; is that correct?

17 A Yes, certainly.

18 Q Was there a concern for you as well?

19 A No.

20 Q And --

21 A You mean as part of this cooperation against me?

22 Q Yes.

23 A Yeah, absolutely. I did things for Sammy, sure.

24 Q But, in fact, when Sammy Gravano cooperated, he
25 withheld information from the government about your

DiLeonardo - Cross/Kedia

1852

1 involvement in certain crimes; is that correct?

2 A Yes.

3 MR. GOLDBERG: Objection.

4 THE COURT: Sustained.

5 Q Well, were you involved in the murder of Fred Weiss?

6 A Yes.

7 Q And were you involved in the murder of Jack somebody
8 or another that you didn't know the last name?

9 A That's correct.

10 Q And Sammy Gravano didn't tell the government about
11 these things; is that right?

12 MR. GOLDBERG: Objection.

13 THE COURT: Sustained.

14 The jury is instructed to disregard.

15 Q Mr. Gravano, you testified that the government didn't
16 know about your involvement in the Jack murder?

17 A Yes.

18 Q Jack, LNU, last name unknown?

19 A Yes.

20 Q When you started cooperating?

21 A Yes.

22 Q And that was what year?

23 A November 14th of 2002.

24 Q And Sammy Gravano started to cooperate in what year?

25 A November 14th, of '91.

DiLeonardo - Cross/Kedia

1853

1 Q 11 years before you?

2 A Yes.

3 Q And he was someone who knew you were involved in the
4 murder of Jack, last name unknown, right?

5 MR. GOLDBERG: Objection.

6 THE COURT: Overruled.

7 A Yes.

8 Q Now, Mr. DiLeonardo, you spoke about your
9 understanding of your cooperation agreement, right?

10 A Yes.

11 Q And that it would be ripped up in your view if you
12 lied, right?

13 A Right.

14 Q Well, you certainly know cooperators who lied and
15 continued to stay out of prison, right?

16 MR. GOLDBERG: Objection.

17 THE COURT: Sustained.

18 Q Mr. DiLeonardo, do you know cooperators who have lied
19 to the government?

20 MR. GOLDBERG: Objection.

21 THE COURT: Please approach for a moment.

22 (Whereupon, at this time the following took
23 place at the sidebar.)

24

25

DiLeonardo - Cross/Kedia

1854

1 THE COURT: What is your objection?

2 MR. GOLDBERG: First of all, it is not relevant.

3 Secondly, she is asking him about what other
4 people know.

5 THE COURT: She is asking him does he know of
6 any other cooperators who lied and stayed out of jail.

7 MR. GOLDBERG: I don't see the relevance.

8 MS. KEDIA: Your Honor, it is directly relevant.
9 First of all, he will testify that he does, as he has
10 testified in prior trials, he knows cooperators who lied
11 and stayed out of jail. And his brother-in-law Frank
12 Fappiano, F-A-P-P-I-A-N-O, is someone who he knew to be
13 cooperating, and he gave different information to the
14 government than Frank Fappiano gave, and he had an
15 opportunity to read his 302s, and he knew it, and it is
16 relevant to any cooperating witness if he understands
17 certainly that cooperators can lie and in fact stay out of
18 jail, and in fact knows cooperators who have lied and
19 their cooperation agreements were not breached by the
20 government.

21 MR. GOLDBERG: There had been no foundation, and
22 he has no personal knowledge of this, and it calls for
23 hearsay.

24 THE COURT: If you can establish personal
25 knowledge, I will allow the question.

DiLeonardo - Cross/Kedia

1855

1 MS. KEDIA: I will, with respect to Frank
2 Fappiano, establish personal knowledge. And he
3 specifically testified he knows cooperators who lied
4 and -- I will ask him the basis of his knowledge.

5 THE COURT: You can ask about that.

6 MR. GOLDBERG: The problem is how is this
7 witness going to know what was discussed in meetings
8 between the government --

9 THE COURT: I agree with you. But this
10 particular incident with Fappiano seems to be an exception
11 and I will permit it.

12 MR. GOLDBERG: Fair enough.

13 (Whereupon, at this time the following takes
14 place in open court.)
15
16
17
18
19
20
21
22
23
24
25

DiLeonardo - Cross/Kedia

1856

1 BY MS. KEDIA: (Cont'd)

2 Q Mr. DiLeonardo, do you know who Frank Fappiano is?

3 A Yes, my ex-brother-in-law.

4 Q He was the brother of your ex-wife, Tina Marie?

5 A Yes.

6 Q And Frank Fappiano is someone who started to
7 cooperate with the government as well; is that correct?

8 A Yes.

9 Q In fact, Frank Fappiano gave certain information to
10 the government you knew to be false; is that right?

11 MR. GOLDBERG: Objection. Foundation.

12 THE COURT: Ask certain foundation questions.

13 Q You know that Frank Fappiano started to cooperate?

14 A Yes.

15 Q In fact, you had an opportunity to learn what in fact
16 he told the government, right?

17 A No.

18 Q You never had an opportunity to learn what he told
19 the government?

20 A No.

21 Q Mr. DiLeonardo, hadn't you given the government
22 information that is contradictory to that of Frank
23 Fappiano?

24 MR. GOLDBERG: Objection.

25 THE COURT: Sustained.

DiLeonardo - Cross/Kedia

1857

1 Q Mr. DiLeonardo, you recall testifying that you know
2 cooperators, including Frank Fappiano, who continued to
3 lie --

4 MR. GOLDBERG: Objection to form.

5 THE COURT: Just apply the question to
6 Mr. Fappiano.

7 Q Mr. DiLeonardo, do you recall testifying that Frank
8 Fappiano in fact gave information --

9 MR. GOLDBERG: Objection to the form, your
10 Honor.

11 THE COURT: Can you get the citation and show us
12 where it is.

13 Q When you started to cooperate, you told your
14 brother-in-law you were going to cooperate; is that right?

15 A Yes.

16 Q And that's a breach of your agreement; is that right?

17 A No.

18 Q And you didn't have an understanding that you were
19 not to tell people you were cooperating?

20 A It wasn't demanded. I took it upon myself. I guess
21 they thought I would know better not to tell anybody. But
22 I felt obligated, being it was my son's uncle and my
23 ex-wife's brother to tell.

24 Q When you say you took it upon yourself -- when you
25 began cooperating, did you have any understanding that you

DiLeonardo - Cross/Kedia

1858

1 weren't supposed to tell other people on the street,
2 especially people involved in organized crime that you
3 were cooperating?

4 A Yes. Like I said, we were locked together. And I
5 gave it a courtesy. I did the wrong thing at that time
6 for me because it jeopardized me on the street.

7 Q When you say you did the wrong thing at the time to
8 jeopardize you on the street, what did you mean?

9 A I was getting bail and I took a shot with them to
10 confide that I was going to cooperate, and I wanted to
11 alleviate a lot of problems in my family, and I let
12 Frankie know that I confided in him.

13 Q Did you tell the government you told Frankie
14 Fappiano?

15 A Yes.

16 Q When did you tell them?

17 A I don't remember, but I did.

18 Q You certainly didn't tell them immediately when you
19 told Frank Fappiano when you were cooperating?

20 A No, when I was out on bail.

21 Q Sometime later?

22 A Yes, within a couple of weeks, I believe.

23 Q And when you were out on bail, Mr. DiLeonardo, there
24 was a period of time that the government allowed you to
25 get out on bail, right?

DiLeonardo - Cross/Kedia

1859

1 A Yes.

2 Q And that is because you had expressed an interest in
3 cooperating with them, right?

4 A Yes.

5 Q How did that come about that you --

6 A I reached out to my lawyer.

7 Q Did the government reach out to you, or did you reach
8 out to them?

9 A I reached out to them.

10 Q And you told them that you wanted to give them
11 information?

12 A Yes.

13 Q And make a deal?

14 A Excuse me?

15 Q And make a deal?

16 A Yes.

17 Q And the reason is you didn't want to be in jail
18 anymore, right?

19 A Yes. The mob threw me out. They pushed me on the
20 side. Why would I stay in jail for the rest of my life,
21 for what cause? They took my cause away when they did
22 that.

23 Q One reason is you didn't want to be in jail, and
24 another reason is you were angry with your fellow Mafia
25 members; is that right?

DiLeonardo - Cross/Kedia

1860

1 A Yes.

2 Like I said, if I'm standing up for a cause my
3 whole life and for no reason they take this whole thing
4 that I lived for my whole life and dedicated, they took it
5 away from me. Why should I stay in jail and deprive my
6 family, you know, from what it is.

7 Q You want to get revenge, right?

8 A It wasn't a revenge thing. It was a matter of saying
9 that's enough. I did enough for this family.

10 Q And now it is time for you to just take care of
11 yourself; is that right?

12 A My wife and my child, children.

13 Q And yourself, and set aside your brothers, right?

14 A Well, they threw me out first. They casted the first
15 stone. I did not. I stood trial in Atlanta facing 20
16 years and up with a smile every day in that courtroom, and
17 I got acquitted. I won a miracle.

18 No different over here. Despite my case, they
19 decided to do that for me.

20 Q You were acquitted in the Atlanta case. What is your
21 understanding as to why you were acquitted?

22 MR. GOLDBERG: Objection.

23 THE COURT: Overruled.

24 A They put together a bad case, my understanding is.

25 Q Meaning the government couldn't prove it beyond a

DiLeonardo - Cross/Kedia

1861

1 reasonable doubt?

2 A Right.

3 Q Mr. DiLeonardo, there came a time that the government
4 got you bail?

5 A Yes.

6 Q Agreed to your bail?

7 A Yes.

8 Q And during this period of time, you were making tape
9 recordings; is that right?

10 A Yes.

11 Q And this is a two-week period of time?

12 A Yes.

13 Q And you had no choice as to who you would record and
14 when you would make the recording; is that right?

15 A That's correct.

16 Q You had to deal -- do what the government wanted you
17 to do?

18 A Yes. And any time I wanted to visit my mother in the
19 hospital, that tape recorder had to be on, which was
20 tremendously uncomfortable with my mother who was dying at
21 the time.

22 Q Any time you left your house, that tape recorder had
23 to be on?

24 A Yes.

25 Q Even when it was a personal visit, like your mother?

DiLeonardo - Cross/Kedia

1862

1 A Yes, absolutely. And I had no control.

2 Q There came a period of time that you decided maybe
3 you didn't want to cooperate; is that right?

4 A Yes. I was wrestling with that for that period of
5 time when I walked into the U.S. Attorney's Office, and it
6 was my suicide attempt and further on when I was in the
7 hole.

8 Q And the hole is the location in the jail where you
9 were kept under those horrendous conditions; is that
10 right?

11 A Yes.

12 Q Like you described, like at the Hanoi Hilton?

13 A Yes.

14 Q And you decided when you were in that situation you
15 better cooperate, right?

16 A No.

17 Q And that's the period of time that you decided to
18 cooperate for real, right?

19 A I will articulate further.

20 Like I said, I was wrestling with this. And
21 when John, Jr. Gotti decided to call my young son up on a
22 visit for him to try to come in, manipulate my son to try
23 to get me not to cooperate, that's when I got mad and said
24 it is enough.

25 Q Your son didn't want you to cooperate, right?

DiLeonardo - Cross/Kedia

1863

1 A Right.

2 Q And that's something that you -- he made very clear
3 to you?

4 A Yes, but now the boss of the Gambino family calling
5 up a 16-year-old boy to prison, playing with his mind.
6 So, you know, it wasn't my son's decision. He went up to
7 see a guy he knew, John, Jr., and then believed everything
8 he told him.

9 Q Well, you just said you knew him, meaning your
10 families were close, right?

11 A Yes.

12 Q And --

13 A I baptized his son.

14 Q You were close to his children, too?

15 A Yes, I baptized his son.

16 Q Now, Mr. DiLeonardo, you decided during the time that
17 you were under these horrendous conditions in the MCC to
18 cooperate, right?

19 A I decided that.

20 At the time I thought they were putting the
21 screws to me, absolutely.

22 Q In fact, you started to meet with the government on a
23 regular basis, right?

24 A No. I believe I met with them once. I went into the
25 hospital the beginning of December -- from the hospital to

DiLeonardo - Cross/Kedia

1864

1 the MCC in the beginning of December. And then I met with
2 them once in January, where I got nauseous sitting there
3 with them, and I said that's enough, stop.

4 Then I went back to the cell and I was sitting
5 there. And I hadn't seen my son. He never came up to
6 visit me when I was in population, he didn't want to hurt
7 his mother's feelings, he was a minor and the only way he
8 could come up was with Madeline. And that's what ended up
9 happening. He finally came to visit me when I decided to
10 cooperate, when it came out I was going to cooperate.

11 All of a sudden I didn't see the kid for five
12 months, six months. All of a sudden I got visits with
13 him.

14 Now, his mother overlooked everything. It was
15 his brother sitting downstairs in the holding cell facing
16 the same charges. And it became in their interest to send
17 my son up to me now, Gotti's interest, the mob's interest
18 out there and my ex-wife's interest. I understand that,
19 but I didn't like it.

20 Q Mr. DiLeonardo, you said that your son didn't want to
21 hurt your wife's feelings; is that right?

22 A That's correct.

23 Q And this is your wife that you were either separated
24 or divorced from at this time?

25 A Divorced.

DiLeonardo - Cross/Kedia

1865

1 Q And your son had to come with your new girlfriend who
2 was --

3 A The old girlfriend. The one I had the child with.

4 Q Meaning your girlfriend at that time who is now your
5 wife; is that right?

6 A Yes.

7 Q So, your son didn't want to have to do that to his
8 mother; is that right?

9 A Yes.

10 Q And eventually he did come and see you in the jail;
11 is that right?

12 A Like I said, he was told to come and see me to try to
13 persuade me not to cooperate.

14 Q And one of the people that you were going to
15 cooperate against was his uncle, Frank Fappiano; is that
16 right?

17 A Yes. We were arrested together.

18 Q On the same charges?

19 A Yes.

20 Q And this charge was the Fred Weiss murder; is that
21 correct?

22 A Yes.

23 Q And you were arrested on that charge by the
24 government?

25 A Right.

DiLeonardo - Cross/Kedia

1866

1 Q You were facing life on that charge; is that right?

2 A Yes.

3 Q And so, when you told the government about additional
4 crimes, you were facing the same sentence that you had
5 already been facing; is that right?

6 A Correct.

7 Q Now, Mr. DiLeonardo, Fred Weiss is someone you
8 testified was killed on the orders of John Gotti; is that
9 right?

10 A Yes.

11 THE COURT: Specify which John Gotti.

12 Q Senior, right?

13 A Yes.

14 Q And what year was that?

15 A He was killed, I believe, September 11th of '89.

16 Q And Fred Weiss is someone not in the Gambino family?

17 A Associated with the New Jersey family.

18 Q DeCavalcante family?

19 A Yes.

20 Q And John Gotti was the boss of the Gambino family; is
21 that right?

22 A Yes.

23 Q And in fact, there were a couple of people in the
24 Gambino family that had orders to have Fred Weiss killed;
25 is that right?

DiLeonardo - Cross/Kedia

1867

1 A There were two crews.

2 Q Both being Gambino family crews; is that right?

3 A Yes.

4 Q Who was the boss of DeCavalcante family at that time?

5 A Riggi, R-I-G-G-I.

6 Q And you spoke about, or testified about the murder of
7 a man by the name of Paul Castellano, right?

8 A Yes.

9 Q And this was something that was called an
10 unsanctioned murder; is that right?

11 A Right.

12 Q Meaning that there wasn't -- certainly there wasn't
13 permission from the boss, because he was the boss, right?

14 A That's correct.

15 Q And there wasn't permission from what you called the
16 Commission; is that right?

17 A Right.

18 Q And when you talk about the Commission, you are
19 talking about a body that is comprised of how many people?

20 A At that time, four with one on probation.

21 Q And what is the one on probation?

22 A Bonanno family.

23 Q Bonanno family?

24 A Yes.

25 Q Why is it on probation?

DiLeonardo - Cross/Kedia

1868

1 A There was some cooperators in the family, and they
2 put them on probation, that they didn't have a Commission
3 vote at the whole time of --

4 Q What period of time was it that the Bonanno family
5 didn't have a Commission vote?

6 A I would say from whenever Brasco was involved, Donny
7 Brasco, he was the agent there, from the late '70s to the
8 early '80s, around there.

9 Q Well, Frank DeCicco, for example, was killed in 1986?

10 A April 13th.

11 Q And Paul Castellano was killed in 1985?

12 A December 16th, maybe.

13 Q Of 1985?

14 A That's correct.

15 Q And so, this period of time that the Bonannos didn't
16 have a vote, you said, was the late '70s to the early
17 '80s; is that right?

18 A Yes.

19 Q And so, at the time that Paul Castellano was killed,
20 in fact there were five people on the Commission?

21 A Four.

22 Q The Bonannos still didn't have a vote?

23 A Right.

24 I can clear that up for you.

25 Joe Massino was going to be the boss there. And

DiLeonardo - Cross/Kedia

1869
1 he was like this with John Gotti, very close (indicating).
2 Q Are you saying the Bonanno family did or didn't have
3 a vote?
4 A Didn't.
5 Q Didn't?
6 A Did not.
7 Q Didn't you just testify that it was only until the
8 early 1980's?
9 MR. GOLDBERG: Objection.
10 THE COURT: Sustained.
11 A No. I said that --
12 THE COURT: Sustained. No answer.
13 THE WITNESS: Thank you.
14 Q You just testified that Joe Massino was going to
15 become the boss when the boss died; is that right?
16 A Yes. He was in jail.
17 Q A guy by the name of Phil Rastelli; is that right?
18 A Yes.
19 Q And that didn't happen until 1981?
20 A I thought it was later, yes.
21 Q We are talking about a period of time in the
22 mid-1980's, right?
23 A Okay.
24 Q That's when Paul Castellano was killed, right?
25 A Yes.

DiLeonardo - Cross/Kedia

1870

1 Q And so, at this period of time, your testimony is
2 that there were four people on the Commission?

3 A That's correct.

4 Q And who were the people?

5 A It was Genovese family, the Chin. It was John,
6 Carmine Persico, and Vicki Musso for the Luccheses.

7 Q Who did you say for the Gambinos?

8 A John later on, after he took over the family, after
9 Paul was killed.

10 Q I'm talking about at the time that Paul Castellano
11 was killed.

12 A Paul was on there, of course.

13 Q Paul was the person?

14 A Absolutely.

15 Q There are four of them, and the other three don't
16 give permission to kill Paul Castellano; is that right?

17 A Yes.

18 Q John Gotti just goes and does it?

19 A That's correct.

20 Q And obviously, nothing happened to him as a result;
21 is that correct?

22 A They tried to kill him, sure, that's from Frankie
23 DeCicco got blown up. There was a plot by the Genovese
24 family's consigliere, Bobby, who was arrested because he
25 was caught on tapes plotting to kill Gene Gotti and John

DiLeonardo - Cross/Kedia

1871

1 Gotti, Jr.

2 Q There was a talk about it?

3 A A plot, not just talk.

4 Q Certainly he was alive for many, many years?

5 A There was a short window when he got arrested in '90.

6 Q And, in fact, the underboss was killed?

7 A The underboss was killed first, yes. There were
8 three guys killed because of revenge.

9 Q This was a revenge killing?

10 A Yes. There was two other individuals besides Frank
11 who was killed because of this.

12 Q First talk about Frank DeCicco?

13 A Yes.

14 Q And that's the underboss of John Gotti, right?

15 A Yes.

16 Q And you had known him your whole life?

17 A Frank, yes.

18 Q He was blown up publicly on the street, right?

19 A Yes.

20 Q Nothing hidden or surreptitious about it, right?

21 A No. It was a statement being made, absolutely.

22 Q It was a statement being made, and two people on the
23 Commission actually approved it, right?

24 A As far as I know.

25 Q As far as you know to this day, right?

DiLeonardo - Cross/Kedia

1872

1 A Yes.

2 Q And this is an event that occurred nearly 20 years
3 ago, right?

4 A Right. More than 20.

5 Q More than 20 years ago, in 1986, right?

6 A Yes.

7 Q And he is someone -- when he was blown up, there were
8 nearly 50 or 60 people you said in the club across the
9 street, right?

10 A Yes.

11 Q And many people knew it immediately when it happened?

12 A Sure.

13 Q This was happening?

14 A Right.

15 Q And for many, many, many years it remained a mystery
16 as to who did it, right?

17 A Yes.

18 Q And in fact, it wasn't known who was responsible
19 until someone, many years later, started cooperating; is
20 that right?

21 A Yes.

22 Q And a person by the name of Anthony Gas Pipe Casso,
23 C-A-S-S-O?

24 A That's correct.

25 Q And that was not until 1993, right?

DiLeonardo - Cross/Kedia

1873

1 A Whenever it was. I'm not sure of the year.

2 Q So, there was a period of seven, something like that,
3 years?

4 A Yes.

5 Q That no one knew what happened to DeCicco?

6 A Yes.

7 Q And John Gotti certainly wasn't responsible for his
8 death, right?

9 A No.

10 Q And it was done without consulting him and without
11 him giving permission, right?

12 A Right. He was a target also.

13 Q He was a target?

14 A Yes.

15 Q Now, there were people within the family, within the
16 Gambino family, who were also involved in the murder of
17 Frank DeCicco, right?

18 A It is alleged, yes.

19 Q When you say it is alleged, explain what you mean.

20 A We thought there was a faction that was aligned with
21 the Genovese faction, sort of a coup, where -- when John
22 and Frankie were out of the way and whoever else they
23 would kill, the power base, they would put Danny Moreno
24 and Jimmy Brown Fialla, and they would put them in their
25 place.

DiLeonardo - Cross/Kedia

1874

1 Q You just said the Genovese and the Lucchese, they are
2 the two families that were responsible for killing the
3 underboss of the Gambino family; is that right?

4 A That's right.

5 Q And you say that they believed there was a faction in
6 the Gambino family? To this day you are not sure?

7 A Yes, we are pretty sure about it, but I wasn't part
8 of the plot with them. But this is throughout our
9 investigation we found out that it was a good shot that it
10 was Jimmy and Danny.

11 Q When you say through your investigations, you
12 actually found out who did it when somebody started
13 cooperating, right?

14 MR. GOLDBERG: Objection. Asked and answered.

15 THE COURT: Overruled.

16 A Yes.

17 Q In fact, there were a number of years John Gotti was
18 out for how many years, out of prison between the time
19 that his underboss was killed and he was incarcerated?

20 A Well, he gets finally arrested in December of '90.
21 But he has three cases in between. Two he is out on bail,
22 I believe, and one he was remanded. So it wasn't really
23 too many times he was in the street.

24 Q Approximately three or four?

25 A Three, maybe four.

DiLeonardo - Cross/Kedia

1875

1 Q And during that time, you testified that he conducted
2 some kind of investigation into the disappearance of his
3 underboss being blown up?

4 A Yes. I talked about it with Gravano several times,
5 absolutely.

6 Q And he wasn't able to find out?

7 A We thought it was maybe the Italian faction. We have
8 an edict against bombs, we don't blow people up in this
9 country. And you hurt innocent people around there.

10 So, when it was done that way, we thought the
11 Italians in Sicily, they blow people up, so we thought it
12 was an Italian faction maybe. We thought that's where it
13 was coming from.

14 Q So, there was talk and speculation among you all
15 about who did this?

16 A Right.

17 Q And there was even talk that maybe Frank DeCicco's
18 nephew was involved, right?

19 A Frank Suriani, right.

20 Q Because he was having an affair, right?

21 A Who?

22 Q DeCicco was having an affair with his sister-in-law,
23 Suriani's mother?

24 A Yes. Frankie didn't kill him.

25 Q That's something you know?

DiLeonardo - Cross/Kedia

1876

1 A Yes. I saved --

2 Q You know Frank Suriani?

3 A I saved his life.

4 Q You saved his life because it was thought that he
5 would be killed?

6 A This is what happened: Frankie and I were very, very
7 close. Sammy Gravano called me in during this
8 investigation, and he says, you got to bring Frankie in,
9 Suriani.

10 He says Angelo Ruggiero feels he may have killed
11 Frankie DeCicco.

12 I said, Sammy, it is not so, this kid didn't
13 kill Frankie. Why do you want to blame this kid.

14 He said we will bring him in, and bring him down
15 there, and if we don't like his answers, we will kill him.

16 I said, you are killing an innocent guy.

17 Then I told the story about the mother. He
18 didn't know the story about Frankie DeCicco going with the
19 kid's mother. And he started to understand.

20 The next thing I know he said bring the kid in
21 and don't worry about it.

22 I brought the kid in. Sammy talked to him.
23 Angelo gave him a little brief, because Angelo was looking
24 for blood, and I wanted to clip him.

25 Sammy said he told Angelo, you want me to be

DiLeonardo - Cross/Kedia

1877

1 part of this administration, going forward we are not just
2 going to kill guys for no reason.

3 So, through me, through Sammy, I saved his life.

4 Q Sammy Gravano held what position at that point in
5 time?

6 A He was a captain before Frankie got killed.

7 Q He was a captain close to John Gotti, Sr.?

8 A Yes, he was on the hit with Castellano also.

9 Q You were not a made member at the time, right?

10 A No.

11 Q You were simply an associate?

12 A Yes, because I was in the inner circle.

13 Q In such a circle that you could speak to Sammy
14 Gravano?

15 A Yes. It is called the inner circle. Those guys
16 usually did the killings.

17 Q And you were one of those guys?

18 A Yes.

19 Q And Mr. DiLeonardo, there was talk about killing
20 Frank Suriani, although there was no evidence that he was
21 involved in Frank DeCicco's murder; is that right?

22 A Yes, like I said, Angelo Ruggiero, he wasn't the
23 sharpest knife. And he was just looking for blood and
24 wanted to throw guys in the street.

25 Q And he did that although there was no evidence --

DiLeonardo - Cross/Kedia

1878

- 1 A Yes.
- 2 Q -- against Frank Suriani?
- 3 A Right.
- 4 Q Now, there are a number of other unsanctioned cases
- 5 that you are certainly aware of that happened within the
- 6 Gambino family and within the other crime families, right?
- 7 A Yes.
- 8 Q Anthony Rotundo's father was killed; is that right?
- 9 A Yes.
- 10 Q Tell the jury who Anthony Rotundo's family was.
- 11 A A captain with the DeCavalcante family. He may have
- 12 held a higher position at one point, I'm not sure. But he
- 13 was killed.
- 14 Q And his death is still unsolved to this day; is that
- 15 right?
- 16 A Yes, as far as I know, yes.
- 17 Q And that was what period of time, Mr. DiLeonardo?
- 18 A In the early '80s, I would say.
- 19 Q Some 25 years ago?
- 20 A Yes.
- 21 Q There is a person Frank Parosole; is that right?
- 22 A Yes.
- 23 Q And he was murdered; is that right?
- 24 A Yes.
- 25 Q Again, it was not a sanctioned act, right?

DiLeonardo - Cross/Kedia

1879

1 A Absolutely.

2 Q And this was something that was done by someone who
3 was associated with the Gambino family; is that right?

4 A Yes.

5 Q And a man by the name of Lenny DeCarlo?

6 A Yes..

7 Q And he didn't get permission --

8 A No.

9 Q -- from the top, certainly, in the administration?

10 A He never could have had it, correct.

11 Q What does that mean?

12 A He never would have killed Frank Parasole. There was
13 no reason to kill him. He shot him to send a message to
14 him. It was an accident. He shot him in his buttocks and
15 severed the femur artery and the poor guy died. That
16 could never be done without permission.

17 Q Meaning the higher-ups would never have approved it;
18 is that right?

19 A Yes.

20 Q If Lenny DeCarlo had gone to someone and asked for
21 permission, they would have said no?

22 A No.

23 Q And when you say it was an accident, you don't mean
24 that Lenny DeCarlo taking the gun out and shooting him was
25 an accident, right?

DiLeonardo - Cross/Kedia

1880

1 A Right.

2 Q He meant to shoot him?

3 A Yes. But he didn't mean to shoot him to kill him.

4 In this kid's mind, he thought it was in the -- he was in
5 the wild west and thought he would kill him to send him a
6 message. I couldn't get into his head, but it was the
7 wrong thing to do.

8 Q He is someone who was a bit of a loose cannon?

9 A He was a loose associate at one point of our family.
10 He did nothing for us. I got this kid a job because of
11 his uncle Huck. The kid was around his uncle. He really
12 didn't do anything with the Gambino family.

13 He came out of jail. He needed a job, and his
14 uncle asked if I could put him to work in construction,
15 and I made a mistake to cause this Parasole his life.

16 Q You mean by being associated with the Gambinos?

17 A No. His uncle was a wise guy. I couldn't stop the
18 association, I meant getting him his job.

19 Q But you did?

20 A Yes.

21 Q And he was associated?

22 A Absolutely.

23 Q And he killed somebody?

24 A Absolutely.

25 Q Without your permission certainly?

DiLeonardo - Cross/Kedia

1881

1 A Absolutely.

2 Q And without the permission of the administration?

3 A Right.

4 Q And he is someone that you even described as an
5 animal; is that right?

6 A He acted like an animal that day, for sure.

7 Q Mr. DiLeonardo, this person, Lenny DeCarlo, the
8 animal, he wasn't punished for this unsanctioned killing,
9 right?

10 A He should have been killed, but he was not because of
11 his uncle.

12 Q But he wasn't?

13 A He wasn't, and I'm just telling you the reason why,
14 because of his uncle.

15 Q Because his uncle was someone you respected?

16 A No, I didn't respect Huck. I respected him as a wise
17 guy. As far as having respect for him, no.

18 Q He was -- this person you are talking about, you said
19 Huck?

20 A Huck.

21 Q And Huck was in what position at the time?

22 A He was a soldier with Louis Vallareio. He is one of
23 the guys who saved his life.

24 Q And you were someone in a higher position even than
25 Huck?

DiLeonardo - Cross/Kedia

1882

1 A Absolutely. I was a captain. He was only a soldier.
2 And like I said, those three fellows, after I saved them,
3 I vouched for them. I ended up responsible for them going
4 forward.

5 Q And did you do the same for Lenny DeCarlo?

6 A He was with Huck, I said, I have to kill Lenny, I
7 have to kill his uncle.

8 Q So you didn't do either obviously?

9 A No, and I didn't get any orders from above to do so
10 either. On that instance, they broke my brother-in-law
11 Frankie, and took him out of my crew and put him in
12 another crew. That was the only punishment that was doled
13 out.

14 Q None to Lenny DeCarlo himself?

15 A No.

16 Q And there is a person by the name of Bobby Broiello,
17 who was killed; is that right?

18 A Yes.

19 Q And it was believed to be a personal problem with
20 someone in -- Bobby Broiello was who?

21 A Bobby Broiello, when he was killed, was an acting
22 captain for John Jr. Gotti, and he was killed in revenge
23 for Paul Castellano.

24 Q Broiello was an acting captain in the Gambino family?

25 A Yes.

DiLeonardo - Cross/Kedia

1883

1 Q And he wasn't killed on the order of John Gotti,
2 right?

3 A No.

4 Q And when he was killed it was believed to be a
5 personal problem with the Genovese family, right?

6 A No, absolutely not.

7 Q When in point of time that the Genovese family took
8 action --

9 A They did not take action. Like what happened was a
10 personal issue with Bobby that was thought to be an
11 associate with the Genovese family that Bobby had problems
12 in the past. Maybe I jumped ahead on why he was killed,
13 but the real reason was because of retribution undermining
14 in the beginning when he first got killed, we thought it
15 was an associate personal issue. But that was not the
16 reason.

17 Q Bobby Broiello was killed when?

18 A April 13th of '92, five days to the day that Frankie
19 DeCicco was killed, on his anniversary.

20 Q And you say it was revenge. But it wasn't sanctioned
21 by his family, right?

22 A Right.

23 Q It was other people in other families?

24 A The same two people on the Commission.

25 Q The same two people, but in other families?

DiLeonardo - Cross/Kedia

1884

1 A Yes, absolutely.

2 Q Who is Preston, P-R-E-S-T-O-N, Geritano,
3 G-E-R-I-T-A-N-O?

4 A Preston Geritano is a lifelong friend of Boriello.
5 That's the individual I was telling you about, they had
6 some beef, would you like me to explain the story?

7 Q Yes.

8 A When John Gotti, Sr. was in the street, Preston and
9 Bobby are lifelong friends, like I said, but became bitter
10 enemies, they were shooting at each other at one point.

11 When this happened, John Gotti sent Gravallo
12 (ph) to the *westside of the Genovese family, because
13 Preston was *properly of that family, and lodged a
14 complaint, and said if Bobby Broiello was going to get
15 killed or hurt by this Preston, we would want the Genovese
16 family to take care of Preston.

17 And an agreement to control Preston and not any
18 more beefs with Bobby, and if anything happened to Bobby,
19 they would kill Geritano.

20 Q Something obviously happened to Bobby Broiello?

21 A Yes.

22 Q And nothing happened to Preston, right?

23 A I told you, Preston did not kill Bobby. And we were
24 going to kill Preston, John wanted to kill Preston. I
25 talked him out of it.

DiLeonardo - Cross/Kedia

1885

1 Q Again, you stepped in and saved him?

2 A Absolutely. There was no proof in taking this guy's
3 life, I don't believe in taking a life for any reason.

4 Q Yet, you were involved in a conspiracy to kill
5 H-Y-D-E-L-L, Frank Hydell, right?

6 A He was a cooperator, and I got messages from two
7 different people he was a cooperator, and I facilitated
8 the message that led to his death properly.

9 Q You did this without the permission of the boss or
10 the acting boss, right?

11 A I did what without permission?

12 Q Involve yourself in a murder to kill Frank Hydell,
13 right?

14 A Yes. Pete Gotti at the time knew about it. But
15 there was no -- I was passing a message, not to kill Frank
16 Hydell. I passed a message to Carbanaro who had a
17 message. And I told my partner Eddie, who was very close
18 with Huck about this. And I also informed George
19 Lombardozi, whose cousin is Dan Moreno, a captain with us,
20 was in Fort Dix prison. Frank Hydell was the nephew of
21 Danny Moreno. So, I was obligated also to send Georgy
22 Lombardozi, who was in my crew at the time, to go tell
23 Danny that his nephew was a rat besides telling other
24 people about this kid.

25 Later on, Huck came to me for permission to kill

DiLeonardo - Cross/Kedia

1886

1 Hydell. And I told him I had nothing to do with it. He
2 didn't tell me to get permission from Pete. So, I'm not
3 getting permission, and I'm not going along with this.

4 Q And it was done anyway?

5 A Yes.

6 Q And without your permission and without Pete's
7 permission?

8 A That's correct.

9 Q Now, Mr. DiLeonardo, you testified about your
10 relationship -- let's talk about your brother for a
11 second.

12 You testified about your brother having been
13 killed in 1981; is that right?

14 A Right.

15 Q And he was someone who was associated with the
16 Colombo family at the time?

17 A That's correct.

18 Q And you testified that you found out at some point
19 that it was Carmine Sessa, S-E-S-S-A, Frank Scarpa, Jr.,
20 and one other person involved?

21 A Kevin Granada.

22 Q You found this out 11 years after your brother was
23 actually killed; is that right?

24 A Yes.

25 Q So, for those 11 years you didn't know who was

DiLeonardo - Cross/Kedia

1887

1 responsible, right?

2 A I know where it came from, but I didn't know the
3 individuals who did the killing.

4 Q Until Carmine Sessa actually cooperated?

5 A Testified.

6 Q And said he was responsible; is that right, along
7 with others?

8 A Yes, he was on the hit, but didn't give the order.

9 I believe Jerry Langella and Scapi -- I don't
10 know his real name, and Greg decided to get rid of my
11 brother.

12 Q Well, you testified about a person by the name of
13 Michael Persico coming to you after your brother was
14 killed; is that right?

15 A Yes.

16 Q And Michael Persico is the brother of Allie Persico;
17 is that right?

18 A Yes.

19 Q And Michael Persico, in fact, came to you and said
20 that his father didn't even know about it, right?

21 A That's right.

22 Q It never should have happened?

23 A He never had said Allie knew about it. He
24 sent his sorrow, condolences, and said if I would have
25 known about it, it never would have happened.

DiLeonardo - Cross/Kedia

1888

1 Q At the time you understood his father was the brother
2 of the family; is that right?

3 A Absolutely.

4 Q You testified about your relationship with a man by
5 the name of Bill Cutoolo?

6 A Yes.

7 Q Called him Wild Bill?

8 A Yes.

9 Q Why is that?

10 A He was a wild guy.

11 Q What do you mean by a wild guy?

12 A Very animated at times, and very aggressive.

13 Q Well, was he someone who was feared?

14 A Yes.

15 Q He was someone who was violent?

16 A Yes.

17 Q And you testified that you believed him to be -- I
18 believe you said a worthy adversary; is that right?

19 A Yes.

20 Q But, but that he actually didn't have good
21 negotiation skills; is that right?

22 A He had good negotiation skills. But his point, he
23 never would give in. It was very hard for Bill to give
24 in.

25 I won a beef with the kid Craig, a stockbroker,

DiLeonardo - Cross/Kedia

1889

1 I don't know how. I believe he just conceded at that
2 point and wanted a better relationship with me.

3 Q It is fair to say that Bill Cutolo fought with
4 everybody?

5 A Every family, yes.

6 Q He had terrible disputes?

7 A Yes.

8 Q He was someone you knew long before you ever knew
9 Mr. Persico?

10 A I knew of Allie but I didn't know Allie.

11 Q What does that mean?

12 A Everybody knows the Persicos in the neighborhood. I
13 met his son Michael since I was a kid. I was in his house
14 as a kid.

15 Q And you lived in the same neighborhood, right?

16 A Yes.

17 Q And you had a relationship with his brother?

18 A And his other brother Larry.

19 Q At the time you met Billy Cutolo, you had no
20 relationship with Mr. Person?

21 A Zero relationship.

22 Q Zero until many, many years later?

23 A Yes.

24 Q And at the time you met with Bill Cutolo, what were
25 you meeting with him about?

DiLeonardo - Cross/Kedia

1890

- 1 A In all those years?
- 2 Q In the beginning. You said you met in the '70s.
- 3 A Late '70s, early '80s.
- 4 Q What were you meeting with him about?
- 5 A At that time I didn't meet with him over the beef.
- 6 Q You said over the beef?
- 7 A Over the beef with Louis Berta articulated, and he
- 8 came to look for me on Bath Avenue and that's when the
- 9 meeting was ended up with Paul and Zaccharia.
- 10 Q And at that time, Billy Cutolo was a made guy, right?
- 11 A Yes.
- 12 Q And you weren't?
- 13 A Right.
- 14 Q And then at some point you became a made member
- 15 yourself?
- 16 A Right.
- 17 Q And you were officially introduced to Billy Cutolo?
- 18 A Yes.
- 19 Q And when was that?
- 20 A Sometime in '89, '90.
- 21 Q And you were officially introduced as what at that
- 22 time?
- 23 A I was a soldier, he was a captain.
- 24 Q Who introduced to you?
- 25 A Don't remember.

DiLeonardo - Cross/Kedia

1891

1 Q And what were the circumstances surrounding your
2 introduction?

3 A I don't remember. I don't recall it at all. But I
4 was introduced to him.

5 Q And you testified about a time when you went to Billy
6 Cutolo's club?

7 A Yes.

8 Q When was that?

9 A I would say around '98 maybe. Maybe around there.
10 I'm not sure.

11 Q When you say his club, you mean the Bocce Club?

12 A I don't remember the name of it. I don't know if it
13 was called Bocce Club.

14 Q 11th Avenue and 63rd Street?

15 A I thought it was the '70s.

16 Q You only went there once?

17 A But I knew approximately where it was.

18 Q You had known from living in the neighborhood?

19 A Yes.

20 Q And knowing Billy Cutolo?

21 A Yes.

22 Q And you knew about the fact that he met with his guys
23 once a week at that club; is that right?

24 A Yes.

25 Q And you went there in order to set up a meeting with

DiLeonardo - Cross/Kedia

1892

1 Billy Cutolo?

2 A No, to talk to him. Not to set up a meeting. I
3 wanted to see him that night and straighten this issue
4 out.

5 Q Did you actually see him in the club that night to
6 straighten the issue out?

7 A Yes. He wanted to talk in the club. And I didn't
8 talk in clubs because I figured it would be monitored.

9 I asked him to meet me a couple of blocks away,
10 which he did.

11 Q You went to the club and you saw him face to face?

12 A Yes.

13 Q And he didn't want to talk to you in front of all
14 those guys, right?

15 A No, Billy would have talked to me in front of
16 everybody. But I said, let's move the conversation
17 elsewhere.

18 Q Where did you move the conversation to?

19 A I think it was 11th or 12th Avenue and in the 70s.

20 Q And was it a location indoors or outdoors?

21 A Outside, right on the corner.

22 Q Just out on the street?

23 A Yes.

24 Q And you had a conversation, a discussion with him?

25 A Yeah.

DiLeonardo - Cross/Kedia

1893

1 Q And was there anyone else present besides you and
2 Mr. Cutolo?

3 A He came with Dom, and maybe Joe Campy was in the car,
4 but he came with a few people.

5 Q A few people?

6 A Yeah.

7 Q How about you? Were you with anybody?

8 A I think I was alone. I had someone drive me with a
9 car. They didn't come out to talk.

10 Q They drove you to the club and you walked by yourself
11 to wherever it was --

12 A I think we drove over there and I was let out.

13 Q You -- this is the one time you went to the club, but
14 you certainly had other meetings with Billy Cutolo; is
15 that right?

16 A Right.

17 Q Where were they?

18 A Someplace on 18th Avenue and we would walk up the
19 block.

20 Q 18th Avenue where?

21 A In Bensonhurst.

22 Q And you would meet in the street?

23 A Most of the times our meeting was in the street.

24 Q As opposed to inside somewhere?

25 A Yes.

DiLeonardo - Cross/Kedia

1894

1 Q What about in the winter?

2 A That beef was in the winter with the stockbroker. It
3 might have been in the winter.

4 Q How long were your meetings when you had them with
5 Billy Cutolo?

6 A Pretty quick.

7 Q Five, ten minutes?

8 A Yes. Like I said, it was the other meeting about
9 Ludwigsen in the restaurant.

10 Q That was inside a restaurant?

11 A Yes.

12 Q We will talk about that in a minute.

13 Let's talk about other meetings with Billy
14 Cutolo.

15 You generally saw him for five, ten minutes at
16 the time?

17 A It could have been longer. It depends on how long we
18 were talking about something at the time.

19 Q Well, with every meeting, Mr. DiLeonardo, was every
20 meeting an argument with Mr. Cutolo?

21 A It was pretty much a debate. I didn't meet Billy
22 socially. It was always if something came up, we had a
23 little dispute or something.

24 Q Did you ever socialize with Billy Cutolo?

25 A No.

DiLeonardo - Cross/Kedia

1895

1 Q So, when you talk about your knowledge with him, it
2 is simply your knowledge in these meetings for your heated
3 discussions that you had with him?

4 A They weren't really heated. We never yelled at each
5 other. We never yelled at each other.

6 Q But you were --

7 A We debated.

8 Q Did you -- so, when you testified that Billy Cutolo
9 never confided in you that he might have a desire to flee,
10 you didn't have those kind of discussions with Billy
11 Cutolo, right?

12 A No.

13 Q Did you know his girlfriend?

14 A No.

15 Q Did you know he had a girlfriend?

16 A No.

17 Q Did you know about problems that he had with his son,
18 Billy, Jr.?

19 A Billy, Jr. had all kinds of problems with bookmaking.
20 That's another thing we met in Dyker Park about,
21 a dispute with his son Bill, phone cards. I talked to
22 Billy about his son a couple of times.

23 Q Now, when you say -- you talked to his son a couple
24 of times?

25 A No, Billy about his son.

DiLeonardo - Cross/Kedia

1896

1 Q About his son?

2 A Yes.

3 Q About there being problems with the phone card
4 business?

5 A Money owed to Johnnie Rizzo and D'Amico, and also a
6 bookmaking beef with my brother-in-law and Joey D'Angelo.

7 Q Did you know his son?

8 A We met twice I think in a lawyer's office. We shared
9 the same lawyer's office. But as far as socializing, no.

10 Q Apart from just having run into him, did you have
11 actual meetings with him over family business?

12 A No.

13 Q Now, you just testified about meeting with Billy
14 Cutolo in Dyker Park, right?

15 A Right.

16 Q And Dyker Park is where in relation to the Dyker Golf
17 Club, the Dyker Beach Golf Course?

18 A I'm talking about with respect to four blocks, and
19 maybe an avenue away.

20 Q And the Dyker Beach Golf Course is actually right
21 where your club was, right?

22 A No. I didn't have a club then.

23 Q You testified about a club on Bay 7th Street and 86th
24 Street.

25 A That was in 1979, 1980.

DiLeonardo - Cross/Kedia

1897

1 Q And Dyker Beach Golf Club was right next to that
2 club, right?

3 A No. Where the clubhouse was for the golf course, it
4 was a walk. I would say about three-quarters of a mile.

5 Q About the same distance as the park?

6 A Which park?

7 Q Dyker Park, where you were meeting with Billy Cutolo.

8 A I met him in the schoolyard, Dyker Heights Park. I
9 never met where you are talking.

10 Q You met where?

11 A Dyker Heights Park, by the schoolyard.

12 Q Two separate places?

13 A Absolutely. Not where the golf course was.

14 Q And when you met with Bill, Sr. in Dyker Park, Dyker
15 Heights Park, how long a meeting was that?

16 A Maybe ten minutes.

17 Q And what year was that?

18 A I don't remember. Maybe the mid '90s, somewhere. I
19 don't remember where it was.

20 Q Do you have a recollection as to whether it was
21 before or after this dispute in the Colombo family?

22 A Maybe before. I know it was straightened out
23 already, maybe the early '90s.

24 Q So, during the time of the dispute?

25 A It may have been.

DiLeonardo - Cross/Kedia

1898

1 Q Now, Billy Cutolo was someone you were meeting with
2 routinely during this period of dispute?

3 A I wasn't meeting with him. I never discussed the
4 problems of trying to fix that problem in the family. I
5 would take Junior there. Sometimes they would come by,
6 while I'm thinking about it, they would come by Junior's
7 club, his uncle Richie's club, and they would go in there
8 and have some coffee and stuff, Vic --

9 Q You are talking about Vic Arena?

10 A Yes, and Bill Cutolo and Joey.

11 Q And Joey Scopo?

12 A Yes.

13 Q And they would pop by the club; is that right?

14 A Yes.

15 Q And this is during the war period; is that right?

16 A I would say so, yes.

17 Q Now, at this point in time, Mr. DiLeonardo, what
18 position were you in?

19 A In '92?

20 Q Yes.

21 A There was a time I went from soldier to acting
22 captain to captain pretty fast. I would say between '91
23 and '93, from soldier to official captain.

24 Q So, in '91, what were you?

25 A I was a soldier and then an acting captain after

DiLeonardo - Cross/Kedia

1899

1 Gravano flipped. Sometime after he flipped, I became an
2 acting captain.

3 Q And then you became an official captain?

4 A Yes.

5 Q What is an acting captain?

6 A I was in stead for Jackie D'Amico, who was my
7 captain. And since I was close with Junior, he bumped me
8 up to a position, so when I went out to talk to people, I
9 would have the captain status.

10 Q Where was Jackie D' Amico?

11 A In the street.

12 Q Now, when you, at some point after you became a
13 captain, this dispute in the Colombo family was over; is
14 that right?

15 A It was over?

16 Q The violence certainly ended, right?

17 A I think Joey Scopo's last casualty until later on.

18 Q And that was in 1993, right?

19 A That Joey -- whatever I said, whenever Joey died, it
20 was a while before there was any violence, yes.

21 Q And Billy Cutolo is someone you knew who came back
22 into the fold; is that right?

23 A Yes.

24 Q When I say came back into the fold, he decided to
25 align himself with the Persico faction; is that right?

DiLeonardo - Cross/Kedia

1900

1 A Yes.

2 Q And there were a number of people who did not want
3 that to happen, right?

4 A Right.

5 Q And there were still this -- is it still called the
6 Arena faction?

7 A Yes, I would think so, yes.

8 Q And who were those people?

9 A Vinnie Aloï, Joe Scopo, like I said, Bill, Arena's
10 sons and some other wise guys.

11 Q And were there a group of people that you know called
12 the Long Island guys?

13 A I really never heard of them as the Long Island guys,
14 I know Tommy Gioeli was a Long Island guy. But I referred
15 to them as a faction being the Long Island guy.

16 Q Tommy Gioeli is someone you testified belonged on the
17 Persico side?

18 A Yes.

19 Q And not the Arena side of the room?

20 A Yes.

21 Q Was there a group from Long Island on the Arena side
22 of the room?

23 A Yes, I'm not sure.

24 Q Do you know Frank Melia, M-E-L-I-A?

25 A Frank Melia, sure.

DiLeonardo - Cross/Kedia

1901

1 Q Who is he?

2 A He is dead now. He died, not in the war. He died of
3 cancer or a heart attack.

4 Q A heart attack?

5 A Natural causes.

6 Q Natural causes?

7 A Yes.

8 Q And who was he?

9 A A wise guy who sided with the Arena faction.

10 Q Was he one of the Long Island guys?

11 A I don't know. I didn't put anybody in the Long
12 Island state of mind, like I said.

13 Q And you testified that at some point you were told by
14 John, Jr. that Billy Cutolo brought a box of money to
15 Allie Persico; is that right?

16 A According to John, Jr.

17 Q Something you never saw yourself, right?

18 A Absolutely not.

19 Q Were you aware that Billy Cutolo was actually holding
20 money for Mr. Persico?

21 A No. I was never aware of that.

22 Q You had no knowledge of anything --

23 A None whatsoever.

24 Q And Mr. Persico, at the time of the dispute, at the
25 time of Joey Scarpa's death was in jail?

DiLeonardo - Cross/Kedia

1902

1 A Who in jail?

2 Q Mr. Persico.

3 A Yes. At Scopo's death, yes.

4 Q And he was in jail from 1991 to 1994?

5 A I thought it was later he was in jail.

6 Q You thought he got out of jail at a later period?

7 A Yes, I think he had another case after that. I'm not
8 sure.

9 Q When is it that you met Alfonse Persico?

10 A I thought it was between '95 and '96.

11 Q And you testified that at some point when Mr. Cutolo
12 gets out, he was a soldier, right -- I'm sorry, Mr. Cutolo
13 comes back into the fold, he is a soldier; is that right?

14 A Yes.

15 Q He was a captain before and now he was made a
16 soldier; is that right?

17 A Yes.

18 Q And was he made a captain again?

19 A Yes.

20 Q When was that?

21 A I would say maybe a year later.

22 Q A year later, meaning 1994, 1995?

23 A No. If he was out -- if in my mind he is out '95,
24 '96, it would be '96, '97.

25 Q A year later, meaning after Mr. Persico gets out of

DiLeonardo - Cross/Kedia

1903

1 jail?

2 A Yes.

3 Q And your belief is that then Mr. Cutolo is promoted
4 to captain?

5 A Yes.

6 Not my belief. I was introduced to him as a
7 captain.

8 Q You were?

9 A Yes.

10 Q By who?

11 A I don't remember. I have hundreds and hundreds of
12 wise guys, some I remember, some I don't.

13 Q You certainly have a clear recollection that you were
14 introduced to Billy Cutolo as a captain?

15 A Yes, surely.

16 Q Who was at this meeting where you had the
17 introduction?

18 A It wasn't at a meeting, I don't believe. I was just
19 introduced to him as a captain.

20 I don't remember.

21 Q Who held the administration positions when Mr. Cutolo
22 was promoted to captain?

23 A Allie was the only one up there.

24 Q He was the only one?

25 A On the street, he was the acting boss.

DiLeonardo - Cross/Kedia

1904

1 Q So, your testimony is that Mr. Persico was the acting
2 boss and Mr. Cutolo was the captain?

3 A Right.

4 Q And no one was in the position of underboss --

5 A Joe Waverly was part of that administration, but I
6 don't recall what position he held. I never met Joe.

7 Q In all those years, you never met him?

8 A No.

9 Q And what about in the position of underboss?

10 A I didn't know.

11 Q You testified about a dispute over a guy named Dom
12 Goffredo?

13 A Yes.

14 Q And you had various sitdowns over this person?

15 A Yes.

16 Q And you had sitdowns with Mr. Persico over this
17 person?

18 A Yes.

19 Q And Mr. Cutolo?

20 A Yes.

21 Q And Mr. DeRoss?

22 A Yes.

23 Q And, Mr. DiLeonardo, you said you were the liaison
24 between the Gambino and the Colombo family during this
25 period of time; is that right?

DiLeonardo - Cross/Kedia

1905

1 A Right.

2 Q And who was the liaison before you became the
3 liaison?

4 A There wasn't any.

5 Q There wasn't any?

6 A No.

7 Q And when you started meeting with -- with all three
8 of these people you testified about, Mr. Persico,
9 Mr. Cutolo, Mr. DeRoss, were there other people in your
10 family that also were considered liaisons between the two
11 families?

12 A No.

13 Q Just --

14 A I was directed by Junior that if Allie needed
15 anything, and it was of an important nature, or Jack, they
16 would come to me.

17 Q And did you meet with these three individuals about
18 different matters or about the same matters?

19 A No. They was different matters.

20 Q When you met with Mr. Persico, it was about L'Aquila?

21 A That's one, yes, that's one.

22 Q When you met with Mr. Cutolo, one of the matters was
23 stock issues, right?

24 A Stocks, yes, and other things.

25 Q You didn't meet generally with Mr. Persico about

DiLeonardo - Cross/Kedia

1906

1 stock issues when Mr. Cutolo was around, right?

2 A No, no, no.

3 Q And you dealt with Mr. Cutolo there?

4 A It usually started with Bill and worked its way up.

5 Q Meaning when you had a problem resolving something
6 with Mr. Cutolo, then you might go to Mr. Persico?

7 A If it was a problem, yes.

8 Q But ordinarily you would just meet with Mr. Cutolo?

9 A Yes, if we could resolve it, yes.

10 Q Now, after -- at the time that you had this dispute
11 over Dom Goffredo, what year was that?

12 A Started in the mid '90s. In the mid '90s.

13 Q You didn't meet Mr. Persico, to your knowledge, until
14 '96; is that right?

15 A '95, '96.

16 Q And what position did Mr. Cutolo have during this
17 time that you were meeting about Dom Goffredo?

18 A He was a soldier.

19 Q And what position did Mr. DeRoss have?

20 A He was a captain. He was always a captain when I met
21 him until he got bumped up.

22 Q Now, when you met Mr. Persico, he already, in your
23 view, occupied the position of acting boss?

24 A He was the acting boss when I met him.

25 Q So, you never knew Mr. Persico to be a captain; is

DiLeonardo - Cross/Kedia

1907

1 that right?

2 A I knew of him being a captain in the past. But I was
3 never introduced to him.

4 Q When you say in the past, you are talking about the
5 period before the war; is that right?

6 A Right.

7 Q And what about after the war?

8 A No. Like I said, he was the acting boss.

9 Q And --

10 A When I met him. I didn't meet him -- after '93, he
11 was in jail.

12 Q And what about between '93 and '96?

13 A Like I said, I never met him, how do I know what he
14 was? As far as I knew, he was a captain.

15 Q As far as you knew, he was a captain?

16 A Yes.

17 Q Until he became the acting boss?

18 A As I said, I was officially introduced to him when I
19 met him as acting boss.

20 Q Who introduced you?

21 A Jackie D' Amico.

22 Q When Mr. Persico was a captain, who held the
23 administration's positions?

24 A Vic was running the family at the time when Allie was
25 in jail.

DiLeonardo - Cross/Kedia

1908

1 Q After the war? After 1993, after Mr. Persico was
2 out?

3 A Like I said, there was a split, so they were at war.
4 Whoever was in the administration positions, we are on
5 opposite sides now.

6 Q So, after Mr. Persico gets out of jail?

7 A Yes.

8 Q Allie gets out of jail?

9 A Yes.

10 Q And they became the captain then?

11 A No. I think he gets out of jail. I was introduced
12 to him as the acting boss.

13 Q Do you know who Andrew Russo is?

14 A I heard of him.

15 Q Have you heard of him being the acting boss in the
16 mid 1990s as -- of the Colombo positions?

17 A It could have been, I know he held a administration
18 position, but he was in jail --

19 Q When you say he could have been, did you learn from
20 someone?

21 A Yes. I didn't know from whom, but I know he had a
22 big bit. I don't know if he was functioning in that
23 capacity when he was in Otisville.

24 Q Do you know there was a period of time between 1994
25 and 1996 that he was out on the street?

DiLeonardo - Cross/Kedia

1909

1 A No. I don't recall that.

2 Q You didn't meet him during that period of time?

3 A No.

4 Q Were you considered the liaison to the Colombo family
5 during that time?

6 A One more time, see if I can get it nice and slow for
7 you:

8 There was no liaison until Allie came home. You
9 want to go a little slower, I can go a little slower for
10 you.

11 Not until he came home did I meet him and dealt
12 with him like that.

13 Q So, until Mr. Persico came home, there was absolutely
14 no liaison, is that what you are saying?

15 A As far as I know, no.

16 Q So, no one from the Gambino family, as far as you
17 know, was meeting with Andrew Russo; is that correct?

18 MR. GOLDBERG: Objection. Asked and answered.

19 THE COURT: Overruled.

20 Q Is that right?

21 A No.

22 If you want me to change my answer, I will.

23 THE COURT: Just answer questions, don't change
24 them.

25 Q Your brother-in-law was a man by the name of

DiLeonardo - Cross/Kedia

1910

1 Mr. Frank Fappiano; is that right?

2 A Yes.

3 Q And Frank Fappiano was someone who actually was a
4 violent person?

5 A He was pumped to silence like the rest of us.

6 Q He was a murderer like you?

7 A Absolutely.

8 Q And he had terrible fights with Bill Cutolo; is that
9 right?

10 A He had one fight with Billy, where Frankie came back
11 and told me he and Billy got into a shouting match. And I
12 corrected my brother-in-law not to do that.

13 Q Meaning you are not to raise your voice and get into
14 shouting voices or fist-fights with the underboss of
15 another family?

16 A Even if he is a soldier, you are supposed to be
17 respectful and supposed to sit down and discuss things.
18 We are not a street gang and not supposed to be a street
19 gang, and act that way because it would lead to someone
20 being killed. It is disrespectful to raise your voice.
21 It happens, sometimes apologies are made but you are not
22 supposed to do that.

23 Q It happens often that people do things --

24 THE COURT: Repeat your question, please.

25 Q Mr. DiLeonardo, people engage in these kind of

DiLeonardo - Cross/Kedia

1911

1 fights, whether verbal or physical fights, all the time;
2 is that right?

3 A No, not all the time. It happens, and not all the
4 time.

5 Q When you say all the time, how often does it happen?

6 MR. GOLDBERG: Objection.

7 THE COURT: Sustained.

8 Q Mr. DiLeonardo, certainly your brother-in-law was one
9 of the people who did engage in this kind of action; is
10 that right?

11 A Yes. They had a bad argument.

12 Q On the occasions you met with Mr. Cutolo, apart from
13 the one time you went to his club, how was the meeting set
14 up?

15 A From the time I went to his club?

16 Q Apart from the time you went to his club, how were
17 the meetings with Mr. Cutolo set up?

18 A Most of the time I think through Joe Campy. I would
19 send Joe D'Angelo. They worked out together. And I would
20 send Joe D'Angelo to make an appointment with Joe Campy to
21 reach Phil.

22 Q And Joe Campy would come back and report to Joe
23 D'Angelo where a meeting would occur?

24 A Yes, where -- if there was a meeting and when.

25 Q When you say most of the time, are you talking about

DiLeonardo - Cross/Kedia

1912

1 a period in the 1990s, mid-1990s as well?

2 A Yes.

3 Q And it would be Joe Campy that would be one of your
4 emissaries, so to speak?

5 A Yes, conduit.

6 Q And the messages about where to meet and what time to
7 meet would go through these two individuals?

8 A Yes.

9 Q And Joe Campy, you testified you knew him for a long
10 period of time?

11 A Right.

12 Q And were you friends with Joe Campy?

13 A We rarely socialized, no. Outside a couple of times
14 I bumped into him outside restaurants when he was with his
15 girlfriend or wife, and we shared drinks. But I never
16 made plans to associate with Joe.

17 Q And it was known amongst the Gambino family that Joe
18 Campy was having an affair with a woman who was married to
19 someone associated with the family?

20 MR. GOLDBERG: Objection.

21 THE COURT: Sustained.

22 Q You knew about it, right?

23 A Yes.

24 Q You knew about the fact that Joe Campy was having an
25 affair with this woman, Rosalie Castellano?

DiLeonardo - Cross/Kedia

1913

1 A I seen them together.

2 Q How did you know about it?

3 A I seen them together.

4 Q Before you saw them together --

5 A There was rumor.

6 Q And you said there was a sitdown over it, right?

7 A I heard later on, I don't know how long after it, but
8 I had heard it.

9 Q Meaning other people in the Gambino family told you
10 there was a sitdown?

11 A Yes. I don't remember who it was, but that's how I
12 heard it, yes.

13 Q Did Joe Campy tell you about it?

14 A No. Joe Campy -- the first time I talked to him
15 about it, I believe, was when we were in MCC.

16 Q And when you were in MCC, this is the period of time
17 that both you and Mr. Campanella are cooperating?

18 A That's correct, absolutely.

19 Q And you spoke to him about the sitdown?

20 A I guess he was there.

21 Q You spoke -- he spoke to you about this sitdown when
22 the two of you were incarcerated together at the MCC?

23 A Yes. He said something, not too clear, but he said
24 he sat down with Carmine Tom Tomato who represented Pete
25 at this meeting. And I don't know who went with Joey, I'm

DiLeonardo - Cross/Kedia

1914

1 pretty sure it was Bill.

2 Q Bill Cutolo?

3 A I think so. I'm not sure.

4 Q And Mr. Campanella, in fact, continued to see
5 Ms. Castellano after the sitdown; is that right?

6 A Yes.

7 Q And that was certainly a violation of the rules,
8 right?

9 A Well, you know what, Pete Castellano is a wise guy
10 from the '50s. If he didn't handle the fact, if he wanted
11 Joey's life, it didn't go nowhere. I don't know how, but
12 he didn't know -- he let it go, I don't know why. Pete
13 Castellano.

14 Q Pete Castellano let it go?

15 A Yes, because Joey was still alive. He wasn't put on
16 the shelf, as far as I know. He was still in good
17 standing and still was seeing the girl.

18 Q When you say you don't know how that happened, what
19 do you mean?

20 A Well, it was a black eye for Pete, and I would say
21 Carmine for sitting down. I don't know what kind of
22 agreement they could have come up with, because he knew
23 who the girl was. He knew it was Frankie Castellano, even
24 though he wasn't a wise guy, his father was. So he knew
25 what he was doing. It wasn't a one-time deal. They were

DiLeonardo - Cross/Kedia

1915

1 going out with each other for years.

2 Q And this is one of the worst things a made guy can
3 do, right?

4 A It is a pretty bad thing to do, absolutely.

5 Q Now, how often did you see Mr. Campanella at the MCC?

6 A We housed together, lived together.

7 Q So, how long a period of time was that?

8 A I would say between four and six weeks.

9 Q Four and six weeks?

10 A At least.

11 Q So, you saw each other every day during that period
12 of time?

13 A He was in my cell with me.

14 Q One of the things you talked about was this sitdown?

15 A Yes.

16 Q And what else did you talk about?

17 A That him having to testify, me having to testify. It
18 was sort of a weird type of bonding, that we weren't happy
19 with what we were doing and distressed in going through
20 this.

21 Q Meaning both of you were cooperating?

22 A Absolutely.

23 Q And going to have to testify in court?

24 A Right.

25 Q Against people who you were formerly associated with;

DiLeonardo - Cross/Kedia

1916

1 is that correct?

2 A Yes.

3 Q And this was a subject of discussion often during
4 this four-to-six-week period you were out together?

5 A Yes. Putting aside our family stuff and visits with
6 the children and things like that, if we were to talk
7 about the street, he was, you know, more than disenchanted
8 the day they tried to kill him. He was disappointed about
9 that.

10 Q He was upset and in shock?

11 A Yes. He said Chickie, DeMartino, he was his best
12 friend for a long time. When Chickie was in jail, he
13 would grow up his daughter. And he would go on about
14 that, and he couldn't understand why they were going to
15 kill him, he would rail on about that.

16 Q He would rail on about that while the two of you were
17 together, housed together at the MCC?

18 A Yes.

19 Q While you were both cooperating?

20 A Yes.

21 Q Now, you testified that you really got to know this
22 man in 1995, 1996, 1997, right?

23 A Yes.

24 Q And I am going to show you what I have previously
25 marked as Defendant's Exhibit X.

DiLeonardo - Voir Dire/Goldberg

1917

1 (Handed to the witness.)

2 Q Do you recognize the person depicted in that
3 photograph?

4 A It looks like Allie.

5 MS. KEDIA: I offer Defendant's Exhibit X.

6 MR. GOLDBERG: Voir dire, your Honor?

7 THE COURT: Sure.

8

9 VOIR DIRE EXAMINATION

10 BY MR. GOLDBERG:

11 Q How confident are you that that is Alfonse Persico?

12 A I would say about 80 percent.

13 MR. GOLDBERG: We object.

14 THE COURT: Come up with the photo for a moment.

15 Excuse us.

16 (Whereupon, at this time the following took
17 place at the sidebar.)

18

19

20

21

22

23

24

25

DiLeonardo - Voir Dire/Goldberg

1918

1 MS. KEDIA: Is the objection, that they are
2 saying it is not Persico?

3 MR. GOLDBERG: I don't know if that's him. The
4 witness is saying he is not sure it is him.

5 THE COURT: He said 80 percent sure it was.
6 He needs a much nicer shot --

7 MS. KEDIA: When the jury goes back to
8 deliberate, I would like a picture that doesn't look like
9 a terrorist photo.

10 THE COURT: Can you get one that looks more like
11 him?

12 MS. KEDIA: It is the only one I have been able
13 to come up with. Obviously he was in jail from 1999 to
14 the present time. And this is what he looked like at the
15 time when Mr. DiLeonardo knew him.

16 MR. GOLDBERG: The defendant has a brother who
17 looks exactly like that.

18 MS. KEDIA: He doesn't look like that at all.

19 MR. BURETTA: It is for the witness to identify.

20 MS. KEDIA: And he said, I'm pretty sure it is
21 Allie.

22 THE COURT: He said he thought it was Allie.
23 You asked him on voir dire if he is sure and he said 80
24 percent.

25 MR. LA RUSSO: We can introduce it as 80 percent

DiLeonardo - Voir Dire/Goldberg

1919

1 sure. I'm not making fun of it. But the point is that
2 this is the photograph we would like to get in like they
3 have been doing with their photographs. It is 80 percent
4 sure.

5 THE COURT: Why don't you put it in with another
6 witness who is more familiar with what Mr. Persico looked
7 like during this period than this witness.

8 MS. KEDIA: This witness is someone who says he
9 met with him dozens and dozens of times during the time --

10 THE COURT: He is not certain. He is only 80
11 percent certain.

12 MS. KEDIA: If I showed him the other picture of
13 Mr. Persico, the one the government asked him about, if
14 this is Mr. Persico and he said yes, it looks like him.
15 Exactly what he said here.

16 MR. GOLDBERG: I didn't ask about a percentage:
17 I said how sure was he. If there is a picture that looks
18 more like the defendant, and if the witness --

19 THE COURT: Please don't talk over each other.

20 MS. KEDIA: When Mr. Goldberg says looks more
21 like the defendant, this is a picture of the defendant.

22 THE COURT: Bring in a witness, and next go
23 around I will let you put it in on your case.

24 Let's go.

25 (Whereupon, at this time the following takes

DiLeonardo - Voir Dire/Goldberg

1920

place in open court.)

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DiLeonardo - Direct/Kedia

1921

1 THE COURT: Objection sustained.

2 DIRECT EXAMINATION (Cont'd)

3 BY MS. KEDIA:

4 Q Mr. DiLeonardo, when you testified about 80 percent
5 sure, you met with Mr. Persico dozens and dozens of times;
6 is that right?

7 A Yes.

8 Q This is a period during the 1990s?

9 A Yes.

10 Q Ten years ago?

11 A Yes, right.

12 Q Now, when you met with Mr. Persico, how did you
13 arrange those meetings?

14 A Sometimes with his brother-in-law, sometimes they
15 would send Eddie to go see Jackie DeRoss.

16 Q Who is Eddie?

17 A Garafola.

18 Q And who was Eddie Garafola at that time?

19 A A soldier in the Gambino family with Louis Vallareio,
20 under my direction.

21 Q And you would send him to see Jackie DeRoss?

22 A Yes.

23 Q And Jackie DeRoss, who did you understand him to be
24 at that time?

25 A He was a captain.

DiLeonardo - Direct/Kedia

1922

1 Q And you sent a soldier to a captain to set up a
2 meeting?

3 A Sure. If Jackie would have objected, then we would
4 have had to find a different way.

5 Q But he didn't --

6 A As a matter of fact, it was even less than that. I
7 had an associate set up appointments for Jackie DeRoss,
8 his next door maybe, a fellow named Patty was to set up
9 appointments with Jackie.

10 Q So, he wasn't a stickler to the rules?

11 A It came to me. He was a stickler, but we took the
12 appointments. As a matter of fact, we had some meetings
13 in Patty's house with Jackie, now that you reminded me.

14 Q Patty's house?

15 A Patty DePippo.

16 Q Who is he?

17 A An associate of my brother-in-law Frank.

18 Q In the Gambino family?

19 A Yes.

20 Q And sometimes you would just call this person to say,
21 let's set up a meeting?

22 A Yes.

23 Q And what issues would you be meeting Jackie DeRoss
24 about?

25 A Construction, plumbing, a plumbing guy, politics in

DiLeonardo - Direct/Kedia

1923

1 general, many things.

2 Q Would you set up a meeting with Mr. DeRoss just to
3 discuss politics in general?

4 A That usually followed.

5 Q When you had a meeting for some other purpose?

6 A Yes.

7 Q And did you discuss stocks with Mr. DeRoss?

8 A I don't remember discussing stocks with Jackie.

9 Q When you say you discussed construction with both
10 Mr. Persico, and now you said it about Mr. DeRoss.

11 When was it decided which one of them you would
12 discuss construction with in a given instance?

13 A Most of the time the discussions in construction was
14 about L'Aquila with Allie. And the rest of the
15 construction I would discuss with Jack, insofar as
16 trucking and dumpees (ph), and dumps and dirt.

17 Q During this period of time in the mid 1990s, to the
18 late 1990s, when you knew Mr. Persico, you spent Al -- he
19 spent a lot of time in Florida; is that right?

20 A Yes, he did.

21 Q In fact, you had gone to Florida at some point and
22 happened to see Mr. Persico; is that right?

23 A Yes. I ran into him a couple of times, yes.

24 Q And you discussed scuba diving?

25 A Yes, he was a good scuba diver.

DiLeonardo - Direct/Kedia

1924

1 Q Something Mr. Persico enjoyed doing?

2 A Yes, sky diving, scuba diving. He liked the
3 outdoors.

4 Q You discussed social things with him as well; is that
5 right?

6 A Yes.

7 Q And this is throughout the time period that you knew
8 him in the 1990s?

9 A Yes.

10 Q Now, you testified about a meeting that you had with
11 Mr. Persico and Mr. DeRoss.

12 A Okay.

13 Q And you testified that this was a meeting that
14 occurred sometime in mid 1999; is that right?

15 A Correct.

16 Q When was this meeting planned?

17 A I don't know, maybe a week or so before. I'm not
18 sure of the exact timetable.

19 Q This was a meeting where you were supposed to meet
20 Billy Cutolo?

21 A Yes.

22 Q How often had you met Billy Cutolo at Angelo Spata's
23 house?

24 A Never.

25 Q This was the first time that was going to happen?

DiLeonardo - Direct/Kedia

1925

1 A Yes.

2 Q And this was a meeting, according to you, that
3 Mr. Cutolo was going to attend over a stock issue; is that
4 right?

5 A Right.

6 Q And yet, it was in Mr. Persico's brother-in-law's
7 house, according to you, right?

8 A Yes.

9 MR. GOLDBERG: Objection.

10 Asked and answered.

11 THE COURT: Sustained.

12 Q Mr. DiLeonardo, at the time of this meeting you had
13 been dealing with Mr. Persico throughout the late 1990s;
14 is that right?

15 A That's right.

16 Q And you didn't think at the time of this meeting that
17 Mr. Persico was going away for a long time in jail, right?

18 A I think he had a case he might have been facing. I
19 don't know when he got pinched. But a short bit it was.

20 Q A short bit?

21 A Yes.

22 Q Meaning a small case?

23 A Small case, yes.

24 Q And at the time of this meeting, or sometime even
25 after the time of this meeting, you were setting up

DiLeonardo - Direct/Kedia

1926

1 meetings and asking that Mr. Persico meet with the Gottis;
2 is that right?

3 A I was trying to get them together, right.

4 Q You certainly wouldn't have been doing that if you
5 thought Mr. Persico was going to be going away for a long
6 period of time; is that right?

7 A No.

8 Junior is already in jail in '98, and it had to
9 be with Peter at this point. Pete was the acting boss in
10 '99.

11 Q Well, let's focus on this one meeting in mid 1999
12 first, all right.

13 You say it was over a stock issue going on with
14 the -- with a person by the name of Sal Romano; is that
15 right?

16 A Yes.

17 Q And this is a person, in fact, that you had dealt
18 with Billy Cutolo about; is that right?

19 A I dealt with him before about Sal, yes.

20 Q And why did you deal with Billy Cutolo about Sal?
21 What was the situation?

22 A There was an incident where Sal had an office in
23 lower Manhattan, and Dom and Rico went up there and had a
24 difference about all these cold callers, these brokers.
25 They would rob each other's cold callers and steal each

DiLeonardo - Direct/Kedia

1927

1 other's work, and Dom and Rico threatened to hurt Sal
2 Romano, and then we straightened it out.

3 Q When was that in relation to this meeting at Angelo
4 Spata's house?

5 A That meeting, that beef happened right after Dan goes
6 to jail, so it has to be around '94, early '95.

7 Q So this was a totally separate incident over Sal
8 Romano?

9 A Yes.

10 Q And at that point in time, you met with Bill Cutolo
11 alone?

12 A No. I had sent Joey to talk -- Joe Campy to
13 straighten it out. That's how it was straightened out.

14 Q Meaning you didn't meet with Bill Cutolo at that
15 time?

16 A No.

17 Q And were there instances that you met with Bill
18 Cutolo regarding Sal Romano?

19 A I don't believe I had a specific recollection of
20 meeting him specifically about Sal. That was taken care
21 of with Joe Campy and Joe D'Angelo.

22 Q On that one occasion?

23 A Yes.

24 Q And what happened with this next situation that arose
25 with Sal Romano, how is it that that arose?

DiLeonardo - Direct/Kedia

1928

1 A Sal had a guy around in Florida, I believe, and he --
2 they did something with phones and were partners in an
3 office and broke up. And eventually, I learned that Sal
4 did owe him \$23,000, and that's the money Dom and Rico
5 would chase Sal to recoup the \$20,000, and Sal at the end
6 told me that they were right about that.

7 Q And this was the meeting that you were setting up
8 with Mr. Cutolo?

9 A Yes.

10 Q And at that time that you were setting up this
11 meeting with Mr. Cutolo, what was his position?

12 A He was a captain.

13 Q He was a captain?

14 A At this latest, last meeting, he was the underboss.

15 Q And when did he become the underboss, in your view?

16 A Not too long before that. Maybe six months, I think,
17 a year at the most.

18 Q How long had Mr. Persico been the acting boss before
19 Mr. Cutolo became the underboss?

20 A As far as I know, like I said, I was first introduced
21 to him as such in '95 and '96.

22 Q Were you introduced to Mr. Cutolo as the underboss?

23 A Yes.

24 Q Well, do you recall telling the government that you
25 heard from Garafola that Mr. Cutolo was the underboss?

DiLeonardo - Direct/Kedia

1929

1 MR. GOLDBERG: Objection as to form.

2 A I believe --

3 THE COURT: Don't answer it. Sustained.

4 Q How is it that you learned that Mr. Cutolo was the
5 underboss?

6 A I believe I was introduced to Billy.

7 Q By who?

8 A Eddie.

9 Q And Eddie was --

10 A A soldier.

11 Q And he introduced you to the underboss of the family?

12 A Correct.

13 Q Do you recall telling the government that, in fact,
14 Eddie told you --

15 MR. GOLDBERG: Objection, your Honor.

16 THE COURT: Sustained.

17 Q Well, let me show you what is marked as MDL 116 -- I
18 will ask a different question.

19 Mr. DiLeonardo, this issue in 1994 with Sal
20 Romano, you said you didn't meet Billy Cutolo, right?

21 A Umm, no.

22 Q And it was simply settled through the two emissaries?

23 A Yes.

24 Q And in fact, you never met with him about Sal Romano,
25 right?

DiLeonardo - Direct/Kedia

1930

1 A I can't say never, but I don't recall.

2 Q Well, do you recall telling the government that in
3 1999 --

4 MR. GOLDBERG: Objection. Reading from a
5 document, your Honor.

6 THE COURT: Please don't do that.

7 MS. KEDIA: I'm not reading from a document,
8 your Honor.

9 Q Do you recall telling the government in 1999 --

10 MR. GOLDBERG: Objection.

11 THE COURT: Let her finish the question.

12 MR. GOLDBERG: Can we approach on this, Judge?
13 I'm sorry.

14 THE COURT: Yes. Come on up.

15 (Whereupon, at this time the following took
16 place at the sidebar.)
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DiLeonardo - Direct/Kedia

1931

1 MR. GOLDBERG: Sorry for objecting to the
2 record, but the problem is she is reading from the 302, or
3 stating something from the 302, and if I wait for that to
4 happen and I object, it is out.

5 He hasn't said he has a lack of memory in this
6 issue.

7 THE COURT: You keep bringing the 302s in here.
8 It is basic, and you are constantly doing it.

9 MS. KEDIA: I wasn't looking at the 302 --

10 THE COURT: Show me what you have there.

11 This is the 302 I was reading from, 116.

12 According to the individual, at sometime around
13 1999, he represented Sal Romano at a sitdown, Colombo
14 family captain Bill Cutolo, a/k/a Wild Bill, the
15 individual was trying to settle a dispute over telephone
16 equipment that Romano took from Colombo-controlled
17 brokerage firm, which had gone out of business. The
18 dispute was resolved when Romano paid \$23,000 to the
19 Colombo-controlled firm, dated 3/11, 2004.

20 You are trying to bring out --

21 MS. KEDIA: That this witness told the
22 government that that occurred: Once again --

23 THE COURT: This is not the witness' statement.

24 MS. KEDIA: I understand it.

25 THE COURT: It is not an inconsistent statement,

1932

1 and you are constantly --

2 MS. KEDIA: It is completely inconsistent to
3 what the witness just said.

4 THE COURT: It is not a statement --

5 MS. KEDIA: It is his statement, even if it is
6 not --

7 THE COURT: The statement is not an inconsistent
8 statement because it is not the statement of this witness.

9 The objection is sustained.

10 (Whereupon, at this time the following takes
11 place in open court.)

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1 THE COURT: Objection sustained.

2 Ladies and gentlemen, it is five to 5:00. We
3 are going to break for the week.

4 I hope you all have a very nice Thanksgiving.

5 I must once again stress the importance of
6 following the rules here.

7 You must not talk about this case with anyone.
8 You might be tempted to discuss it with family members or
9 relatives what you have seen here in the courtroom. To do
10 so, you violate your oath as jurors.

11 You are not permitted to discuss this case with
12 any person in any way, shape or form.

13 Additionally, if anyone tries to influence you
14 in any way, you are to immediately report it to me by
15 giving Mr. Baran a note. Don't discuss the attempt with
16 other jurors.

17 Don't listen or read anything that might be
18 reported in the media concerning the facts of this case.

19 Do not do any independent research concerning
20 the facts in this case.

21 Keep an open mind, please.

22 We will resume Monday at 9:30. Please make sure
23 we are all here and ready to go at that time.

24 Have a nice holiday.

25

1934

1 (Whereupon, at this time the jury leaves the
2 courtroom.)

3 THE COURT: You can step down, sir.

4 (Whereupon, the witness leaves the witness
5 stand.)

6 THE COURT: Mr. LaRusso, your application with
7 respect to questions that you weren't involved in --

8 MR. LA RUSSO: I apologize, Judge. And I know
9 the rule.

10 It has been a long day, and I think I said that
11 out of frustration, and I apologize to the Court. I
12 should not have participated in the discussion. It was
13 between Mr. Goldberg and Ms. Kedia.

14 THE COURT: The court reporter has expressed
15 real difficulty in getting down this testimony, and
16 certainly at the sidebars. I don't want to have to take
17 the jury out of the room or us out of the room in the
18 hallway. I do expect we will have less sidebars.

19 302s are not statements of the witness' unless
20 it is the agent that you are talking to. If there is an
21 inconsistency in the 302, you have to develop some
22 statement from the witness that the 302 is something he
23 has reviewed for his testimony, or something he agrees
24 with.

25 This particular witness has how many 302s with

1935

1 his name on it, a couple of hundred?

2 Anything else you wish to say, Mr. Goldberg?

3 MR. GOLDBERG: I don't know if you wanted an
4 answer to that question. There are a lot of 302s.

5 THE COURT: Is there anything else?

6 MR. BURETTA: Judge, we would just ask that if
7 counsel, defense counsel are going to be making comments,
8 that they wait until the jury is not here. When we are
9 walking away from the sidebar, they shouldn't be saying,
10 why do we get 3500 then?

11 Similarly, Ms. Kedia, when an objection is
12 sustained, she shouldn't say I got the wrong 302 here.

13 It is not something we should be saying before
14 the jury. I know everybody is tired, but we should try to
15 comport ourselves accordingly.

16 THE COURT: I can't hear what you are saying
17 when you walk away from me. And I'm saying you --

18 MR. LA RUSSO: I think I said it and I
19 apologize.

20 THE COURT: Now, what we have to do -- you
21 shouldn't say it.

22 We need to make sure that there is no talking
23 off the record. A simple rule to follow.

24 I reviewed some of these cases that you cited
25 earlier today, Ms. Kedia, in your letter with regard to

1936

1 Rule 801(b)(1)(A) in terms of the witness' statement being
2 able to serve for impeachment, if a statement is one that
3 is -- that demonstrates evasion, inability to recall,
4 silence, change of position.

5 I don't think the case is on point with the
6 reason you cited it for. The Marchand case deals with
7 identification, which is a totally different category.

8 With regard to what we found here in the Second
9 Circuit, I would point out -- well, there is an Eighth
10 Circuit case, United States v. Brian Matlock,
11 M-A-T-L-O-C-K, and the only thing that I was able to come
12 up with in the Second Circuit is a decision by Judge
13 Sessions citing to this Matlock case. But I don't have
14 any definitive law from the Second Circuit.

15 If you can find something, I will reexamine the
16 position I have taken with regard to, I don't recall, I
17 don't remember, that Mr. Campanella displayed.

18 It certainly was apparent to the jury that
19 Mr. Campanella didn't remember a whole lot when he was
20 confronted with statements that he previously made.

21 So, I think you got your point across. But
22 that's one of the reasons I permitted the examination to
23 continue the way it did and did not allow you any further
24 leeway with inconsistency, which you claimed to be
25 inconsistencies, which I don't see.

1937

1 I don't recall, I don't remember, certainly can
2 be evasive, and you have that before the jury.

3 MS. KEDIA: Your Honor, may I respond briefly?

4 THE COURT: Yes.

5 MS. KEDIA: In the Marchand case, while it did
6 deal, as your Honor said, with an identification issue,
7 what the Court actually held in that case is even if it
8 weren't permitted under this other rule, 801, I believe it
9 was (d)(1)(C) in that case, that the evidence was being
10 introduced under, the -- what Marchand said is that this
11 specific testimony is admissible under 801(d)(1)(A)
12 because, and I quote, if a witness has testified to such
13 facts before -- in that case, it was a grand jury as
14 opposed to a trial jury -- and forgets or denies them at
15 trial, his prior testimony or any fair representation of
16 it falls squarely within Rule 801(d)(1)(A), and United
17 States against Bliss decided by the Second Circuit in
18 2006, cites the Marchand case as extending 801(d)(1)(A) to
19 grand jury testimony and not only trial testimony.

20 Here we are dealing with trial testimony that
21 Mr. Campanella had given on any one of a number of
22 occasions.

23 THE COURT: Any response?

24 MR. BURETTA: Judge, I addressed it this
25 morning. We will look at it again this weekend to find

1938

1 more authority if we can.

2 I would say in many instances the defense got
3 the testimony in anyway, because they would say in the
4 question, and he would say I don't recall having said that
5 before. And he was confronted with his prior testimony on
6 numerous occasions and he was asked, do you remember
7 saying this, and he would say I don't recall.

8 The Court's point is correct that he said I
9 don't recall a lot. And it is correct that he was
10 confronted before the jury with that prior testimony.

11 Whether the underlying testimony itself comes in
12 at this point or not, we will look at it further.

13 Marchand was decided in 1977, and there was a
14 lot of advisory committee notes about identification with
15 respect to that rule, and we will look at it again.

16 THE COURT: See you folks on Monday.

17 MS. KEDIA: As your Honor instructed, I'm
18 turning over to the government today a number of items,
19 that I may or may not introduce in our direct case.

20 THE COURT: Good.

21 MS. KEDIA: They are Bates stamped.

22 (Case on trial adjourned until 9:30 o'clock
23 a.m., Monday, November 29th, 2007)

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25

1939

I-N-D-E-X

W-I-T-N-E-S-S-E-S

ANDRE CICERO CROSS-EXAMINATION BY MS. KEDIA	1661
TOD WILSON DIRECT EXAMINATION BY MS. MAYER	1676
CROSS-EXAMINATION BY MS. KEDIA	1680
PATRICK SCANLAN DIRECT EXAMINATION BY MR. BURETTA	1685
CROSS-EXAMINATION BY MS. KEDIA	1690
MICHAEL DiLEONARDO DIRECT EXAMINATION BY MR. GOLDBERG	1716
DIRECT EXAMINATION (Cont'd) MR. GOLDBERG	1787
CROSS-EXAMINATION BY MS. KEDIA	1834
VOIR DIRE EXAMINATION BY MR. GOLDBERG	1917
CROSS-EXAMINATION (Cont'd) BY MS. KEDIA	1921

1940

E-X-H-I-B-I-T-S

Government Exhibits 6B and 6C received in evidence	1660
Government Exhibit 14 received in evidence	1679
Government Exhibit 2-B received in evidence	1730
Government Exhibit 3500 MDL-1 received in evidence	1783
Government's Exhibit 87 was received in evidence	1808

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<p>\$10,000 [2] - 1740:11, 1804:13 \$100 [2] - 1740:12, 1740:16 \$15,000 [1] - 1768:3 \$20,000 [1] - 1928:5 \$23,000 [2] - 1928:4, 1931:18 \$250,000 [1] - 1785:6 \$50 [1] - 1723:1 \$75,000 [1] - 1804:12</p>	<p>04-CR-911 [1] - 1656:3</p> <p>1</p> <p>1 [4] - 1706:17, 1809:3, 1809:4, 1809:6 10 [2] - 1751:14, 1775:17 100 [5] - 1656:22, 1733:10, 1762:9, 1764:15, 1847:1 100,000 [1] - 1779:21 10010 [1] - 1656:17 10:00 [2] - 1697:15, 1775:14 11 [3] - 1853:1, 1886:22, 1886:25 11201 [1] - 1656:13 11501 [1] - 1656:19 116 [2] - 1929:17, 1931:11 11722 [1] - 1656:23 11:00 [4] - 1697:16, 1723:25, 1775:14, 1775:17 11th [10] - 1689:25, 1690:1, 1694:22, 1702:10, 1815:25, 1817:9, 1866:15, 1891:14, 1892:19 12 [13] - 1677:13, 1677:25, 1678:14, 1679:6, 1683:16, 1725:18, 1725:19, 1743:10, 1751:14, 1835:7, 1835:14, 1835:16, 1835:22 12-A [3] - 1661:2, 1668:13, 1669:1 12-D [1] - 1668:13 12:45 [2] - 1677:22, 1682:5 12th [1] - 1892:19 13 [1] - 1743:10 13-A [2] - 1661:2, 1671:1 13-C [1] - 1676:1 13th [3] - 1746:12, 1868:10, 1883:18 14 [12] - 1678:19, 1679:9, 1679:13, 1716:23, 1716:24, 1727:16, 1768:13, 1834:24, 1835:2, 1835:5, 1836:4, 1940:5 1435 [7] - 1686:7, 1686:9, 1686:18, 1691:23, 1694:13, 1694:18, 1696:23 14th [3] - 1817:13, 1852:23, 1852:25 15 [4] - 1692:20, 1715:15, 1727:16, 1774:21 15-minute [1] - 1849:16 150,000 [1] - 1764:22 16 [2] - 1670:16, 1741:20 16-year-old [1] - 1863:5</p>	<p>1660 [1] - 1940:3 1661 [1] - 1939:4 1676 [2] - 1939:5, 1939:6 1679 [1] - 1940:5 1680 [1] - 1939:7 1685 [1] - 1939:9 1690 [1] - 1939:10 16th [7] - 1661:14, 1666:5, 1670:6, 1671:4, 1671:18, 1671:20, 1868:12 17 [1] - 1677:6 1716 [1] - 1939:12 1730 [1] - 1940:6 1783 [1] - 1940:7 1787 [1] - 1939:13 17th [1] - 1719:18 18 [1] - 1721:22 1808 [1] - 1940:9 1834 [1] - 1939:14 18th [3] - 1850:15, 1893:18, 1893:20 1917 [1] - 1939:15 1921 [1] - 1939:16 1970's [1] - 1830:5 1977 [2] - 1657:23, 1938:13 1979 [1] - 1896:25 1980 [1] - 1896:25 1980's [1] - 1869:8 1981 [3] - 1741:20, 1869:19, 1886:13 1985 [5] - 1744:21, 1744:22, 1746:8, 1868:11, 1868:13 1986 [4] - 1746:9, 1746:11, 1868:9, 1872:5 1990s [9] - 1791:8, 1818:17, 1908:16, 1912:1, 1921:8, 1923:17, 1923:18, 1924:8, 1925:13 1991 [1] - 1902:4 1992 [2] - 1757:21, 1801:23 1993 [13] - 1661:12, 1661:15, 1661:20, 1666:6, 1666:12, 1669:8, 1670:16, 1672:2, 1672:7, 1801:23, 1872:25, 1899:18, 1908:1 1994 [4] - 1902:4, 1902:22, 1908:24, 1929:19 1995 [2] - 1902:22, 1916:22 1996 [3] - 1811:6, 1908:25, 1916:22 1997 [2] - 1811:6, 1916:22 1999 [38] - 1664:9, 1677:10, 1677:13, 1678:1, 1678:14, 1679:6, 1683:16, 1685:20, 1685:21, 1685:24, 1686:2, 1686:6, 1686:13, 1686:19, 1687:11, 1690:11, 1690:18, 1706:17, 1714:10, 1717:22, 1717:23, 1733:5, 1736:18,</p>	<p>1821:1, 1821:2, 1821:6, 1822:5, 1828:4, 1828:13, 1850:4, 1850:12, 1850:15, 1918:13, 1924:14, 1926:11, 1930:3, 1930:9, 1931:13 19th [6] - 1694:7, 1694:10, 1694:14, 1694:16, 1695:19, 1695:25 1:01 [2] - 1682:15, 1682:18 1:30 [1] - 1786:6 1:45 [5] - 1686:4, 1686:5, 1697:6, 1697:10, 1786:7 1st [1] - 1779:16</p>
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